S. HRG. 100-547, PT. 2

NATIONAL AMERICAN INDIAN MUSEUM ACT— (Part 2)

JOINT HEARING

BEFORE THE

SELECT COMMITTEE ON INDIAN AFFAIRS UNITED STATES SENATE

AND THE

COMMITTEE ON RULES AND ADMINISTRATION UNITED STATES SENATE

ONE HUNDREDTH CONGRESS

FIRST SESSION

ON

S. 1722

TO AUTHORIZE THE ESTABLISHMENT OF THE NATIONAL MUSEUM OF THE AMERICAN INDIAN, HEYE FOUNDATION WITHIN THE SMITHSONIAN INSTITUTION, AND TO ESTABLISH A MEMORIAL TO THE AMERICAN INDIAN, AND FOR OTHER PURPOSES

AND

S. 1723

TO AUTHORIZE THE ESTABLISHMENT OF CERTAIN REGIONAL EXHIBITION FACILITIES AS PART OF THE MUSEUM OF THE AMERICAN INDIAN, AND FOR OTHER PURPOSES

NOVEMBER 18, 1987, WASHINGTON, DC

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NATIONAL AMERICAN INDIAN MUSEUM ACT

WEDNESDAY, NOVEMBER 18, 1987

U.S. SENATE,
SELECT COMMITTEE ON INDIAN AFFAIRS AND
COMMITTEE ON RULES AND ADMINISTRATION,
Washington, DC.

The committees met, pursuant to notice, at 2:04 p.m., in room 301, Russell Senate Office Building, Hon. Daniel K. Inouye (chairman of the Select Committee on Indian Affairs) presiding.

Present from the Select Committee on Indian Affairs: Senators Inouye, Evans, and McCain.

Present from the Committee on Rules and Administration: Senators Moynihan and Stevens.

STATEMENT OF HON. DANIEL K. INOUYE, U.S. SENATOR FROM HAWAII, CHAIRMAN, SELECT COMMITTEE ON INDIAN AFFAIRS

The CHAIRMAN. This afternoon, we are here to consider the future disposition of a collection that is reputed to be the world's greatest collection of Indian artifacts, a collection that ranges from Inca gold to Navajo rugs, a collection that is currently housed in such inadequate facilities that nearly 95 percent of the over one million Native American artifacts must be kept in a warehouse with priceless works of Indian art and culture stacked in drawers, piled on shelves, and packed in boxes. I believe that all of the witnesses who will be presenting testimony today share a common goal—that of assuring that this priceless collection is not allowed to fall into a state of irreversible deterioration and that, indeed, the collection will be preserved in the best manner known to modern curatorial science.

I wish to commend my colleagues from the State of New York for the active interest they have taken in the preservation of this invaluable collection.

However, in engaging in a discussion regarding the future disposition of the Heye collection, I believe that it is essential that we not allow our attention and focus to be diverted from the primary issue before us which is the establishment of a museum and memorial to the American Indian on The National Mall, for it is the commemoration of the rich cultural heritage of a proud people that we are here to consider: the outstanding and significant contributions that Indian people have made to our American society, the wisdom and the valor of great American Indian leaders, and the living culture of this Nation's first Americans that will continue to shape the future of all Americans.

There are representatives of great Indian nations here today that remind us that Indian cultures and traditions are alive and well, and that, in a very real sense, the artifacts that have been the subject of so much debate and controversy belong not to a particular region or State but are, in fact, the precious cultural legacy of their Indian ancestors.

Let us then remember that it is this Nation's first Americans that have brought us here today and that it is the preservation of their values, their traditions, and their cultures, as well as the future of their people that is the subject of this hearing.

[The text of S. 1722 and S. 1723 follow:]

II

100TH CONGRESS
1ST SESSION

S. 1722

To authorize the establishment of the National Museum of the American Indian, Heye Foundation within the Smithsonian Institution, and to establish a memorial to the American Indian, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 25, 1987

Mr. INOUYE (for himself, Mr. EVANS, Mr. BYRD, Mr. CRANSTON, Mr. SIMPSON, Mr. DECONCINI, Mr. BURDICK, Mr. DASCHLE, Mr. MURKOWSKI, Mr. MCCAIN, Mr. BINGAMAN, Mr. BOSCHWITZ, Mr. COCHRAN, Mr. CONRAD, Mr. DOMENICI, Mr. GORE, Mr. GRAMM, Mr. LEVIN, Mr. MATSUNAGA, Mr. PELL, Mr. REID, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. RUDMAN, Mr. STAFFORD, Mr. SANFORD, Mr. SIMON, Mr. WIRTH, Mr. BOREN, and Mr. MELCHER) introduced the following bill; which was read twice and referred jointly to the Committees on Rules and Administration and the Select Committee on Indian Affairs

---

A BILL

To authorize the establishment of the National Museum of the American Indian, Heye Foundation within the Smithsonian Institution, and to establish a memorial to the American Indian, and for other purposes.

TITLE I

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National American Indian Museum and Memorial Act".

SEC. 102. The Congress finds that—

(1) there is no national museum devoted exclusively to the history and art of cultures indigenous to North America, specifically Indians, Eskimos, and Aleuts;

(2) although the Smithsonian Institution employs 5,500 people, operates 14 museums and galleries and 5 major research facilities, none of its institutions are devoted to Native American art and history;

(3) the Museum of the American Indian, Heye Foundation, located in New York City, has an unequalled assemblage of over 1,000,000 Indian art objects and artifacts and is the largest such collection in the world;

(4) the library of the Museum of the American Indian houses 40,000 volumes relating to the archaeology, ethnology, and history of Native American peoples;

(5) the collection of the Museum of the American Indian, Heye Foundation, of art, artifacts, specimens and books is inadequately housed in 3 separate facilities totalling 90,000 square feet, with 95 percent of the collection of art and artifacts stored in 20,000 square feet and the collection of books kept in a 15,000 square foot library;

(6) the collection of the Museum of the American Indian, Heye Foundation needs a minimum of 400,000 square feet to adequately exhibit and store art and artifacts and to provide space for scholars and researchers;

(7) the transfer of the collection of the Museum of the American Indian, Heye Foundation to the Smithsonian Institution would—

(A) create an institution whose capabilities for exhibition and research would be unrivaled in scope and would give all Americans the opportunity to learn of the cultural legacy and historic grandeur of the American Indian people; and

(B) provide—

(i) a meeting place for scholars,

(ii) a significant, national facility for the exhibition of Indian art and artifacts,

(iii) a stage for the performing arts,

(iv) curation and other learning opportunities for American Indian people, and

(v) traveling exhibitions to other areas of the country;

(8) approximately 300 skeletal remains of Indians were collected from battlefields and burial grounds and sent to the Army Medical Museum by orders of the Surgeon General of the United States Army and were

afterwards transferred to the Smithsonian Institution where they are still stored;

(9) the Smithsonian Institution has acquired a vast collection of Indian skeletal remains through—

(A) archaeological excavations,

(B) transfers from the United States Army of specimens collected during the Indian wars era, and

(C) donations from private individuals and museums;

(10) the existence of this collection has been estimated to contain the remains of approximately 18,000 Indians, Eskimos, and Aleuts and has concerned many Indian tribes and bands who are determined to provide an appropriate resting place for their ancestors;

(11) a national memorial should be constructed in a suitable location on the Mall in the District of Columbia for the purpose of—

(A) interring those skeletal remains presently in the custody of the Smithsonian Institution which are not suitable for scientific inquiry, giving due regard to the religious and ceremonial beliefs and practices of those Indians, Aleuts, and Eskimos whose ancestors may be included in the Smithsonian collection,

(B) commemorating and memorializing those Indian nations that have disappeared in the process of European settlement on this continent, and

(C) recognizing the Indian tribes and nations that live on their ancestral lands within the United States and acknowledging their historical contribution to American society;

(12) an extraordinary site on the National Mall in the District of Columbia (U.S. Government Reservation No. 6) which has been reserved for the use of the Smithsonian Institution is available for construction of a suitable building to permanently house the collection of the Museum of the American Indian, Heye Foundation; and

(13) the site should also contain a memorial to inter the remains of American Indians and Alaska Natives whose tribal affiliation is not capable of identification and whose remains are also unsuited for scientific inquiry.

SEC. 103. (a) There is established within the Smithsonian Institution a living memorial to American Indian people and their traditions which shall be known as the "National Museum of the American Indian, Heye Foundation" (hereinafter referred to in the Act as the "Museum") which shall provide for—

(1) the advancement of the study of anthropology, particularly in connection with that of the aboriginal peoples of the Americans and the study of their language, literature, history, art, and life;

(2) for the collection, preservation, and exhibition of objects of artistic, historic, literary, and scientific interest related thereto; and

(3) programs of research and study.

(b) The area bounded by Third Street, Maryland Avenue, Independence Avenue, Fourth Street, and Jefferson Drive, in the District of Columbia, is hereby appropriated to the Smithsonian Institution as the permanent site of the Museum.

(c) The Board of Regents of the Smithsonian Institution is authorized—

(1) to accept a deed or other instrument donating and transferring to the Smithsonian Institution all assets of the Museum of the American Indian, Heye Foundation established under the foundation deed executed and delivered by George Gustav Heye on May 10, 1916, in the city of New York;

(2) to prepare architectural and engineering designs, plans, and specifications, and to construct at the site specified in subsection (b) of this section a building

at least 400,000 square feet in size to house the Museum;

(3) to prepare architectural and engineering designs, plans, and specifications, and to construct at the Museum Support Center of the Smithsonian Institution in Suitland, Maryland, a building suitable for the care, conservation, and study of the collection of the National Museum of the American Indian, Heye Foundation; and

(4) to prepare architectural and engineering designs, plans, and specifications, and to construct or otherwise acquire a permanent exhibition facility in the city of New York as part of the Museum in a site as may be designated by the city of New York.

SEC. 104. (a) The identify of the Heye Foundation collection and its name and purposes shall be preserved, and the collection shall not be merged with the collection of the Smithsonian Institution.

(b) Subject to limitations expressly provided by law and, in the case of a gift, subject to applicable restrictions under the terms of such gift and provided that such gift is made upon terms and conditions that are in harmony with the purposes of the Heye Foundation deed, the proceeds from the sale of any property acquired pursuant to section 103(c)(1) shall be maintained for the exclusive benefit of the Museum

and accounted for separately from other funds of the Smithsonian Institution.

(c) All endowments for the benefit of the Museum of the American Indian, Heye Foundation in existence at the time of the transfer authorized in section 103(c)(1) shall be maintained for the exclusive benefit of the Museum and accounted for separately from other funds of the Smithsonian Institution.

SEC. 105. (a) There is established within the Smithsonian Institution a Board of Trustees to be known as the Trustees of the National Museum of the American Indian, Heye Foundation (hereinafter referred to in the Act as the "Board of Trustees"). The Board of Trustees—

(1) shall provide advice and assistance to the Board of Regents of the Smithsonian Institution on all matters relating to the administration, operation, maintenance, and preservation of the Museum; and

(2) shall have sole authority to—

(A) preserve, maintain, restore, loan, exchange, sell or otherwise dispose of property acquired pursuant to section 103(c)(1);

(B) subject to any limitations otherwise expressly provided by law, and, in the case of any gift, subject to any applicable restrictions under the terms of such gift, sell, exchange, or other-

wise dispose of any property of whatever nature acquired pursuant to the provisions of this Act, provided, that the proceeds from the sale of any property acquired pursuant to section 103(c)(1) shall be designated for the exclusive benefit of the Museum and accounted for separately from other funds of the Smithsonian Institution;

(C) purchase, accept, borrow, or otherwise acquire additional artifacts or any other real or personal property for the National Museum of the American Indian, Heye Foundation;

(D) preserve, maintain, restore, loan, exchange, sell or otherwise dispose of such additional artifacts or any other real or personal property;

(E) determine policy as to method of display of such artifacts contained in the Museum.

(b) The Board of Trustees shall—

(1) designate a chairman from among its members;

(2) adopt bylaws to carry out its functions;

(3) report annually to the Board of Regents on the acquisition, disposition, and display of artifacts and on other matters within its discretion; and

(4) submit an annual report to the Congress which shall include the proceedings of the Board and a full

account of the Board's financial operations for the preceding fiscal year.

(c) The initial Board of Trustees shall consist of those members of the Board of Trustees of the Museum of the American Indian, Heye Foundation who are serving as of the date of the transfer authorized under section 103(c)(1) and are willing to serve as Trustees of the National Museum of the American Indian, Heye Foundation and such others appointed by the Board of Regents for a total of 21 members, all of whom shall be appointed to serve for a 3-year term. In addition, the Secretary, and an Assistant Secretary of the Smithsonian Institution to be appointed by the Secretary, shall serve as ex officio, nonvoting members of the initial Board of Trustees.

(d) Successor members of the Board of Trustees shall be appointed by the Board of Regents. The Board of Regents shall appoint successor members to the Board of Trustees as follows—

(1) 21 members, to be selected from nominations submitted by the Board of Trustees, of whom at least 7 shall be of American Indian or Alaska Native ancestry; and

(2) the Secretary of the Smithsonian Institution, and an Assistant Secretary of the Smithsonian Institu-

tion to be appointed by the Secretary, who shall serve as ex officio, nonvoting members.

(e) Following the expiration of the term of the initial Board of Trustees, the terms of office of the successor members of the Board of Trustees shall be as designated by the Board of Regents at the time of appointment on recommendation by the Board of Trustees, and shall expire one-third at the end of 1 year, one-third at the end of 2 years, and one-third at the end of 3 years. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

(f) A majority of the members of the Board of Trustees, not incuding ex officio members, shall constitute a quorum and any vacancy in the Board of Trustees shall not affect its power to function.

(g) Members of the Board of Trustees shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

SEC. 106. (a) The Board of Regents may appoint and fix the compensation and duties of the Director, in consultation with the Board of Trustees, and of such other officers and employees of the Museum as may be necessary for the efficient administration, operation, and maintenance of the Museum.

(b) The Director and 2 other employees of the Museum may be appointed and compensated without regard to the provisions of title 5 of the United States code governing appointments in the competitive service, and chapter 51 and subchapter III of chapter 53 of title 5 of the United States Code.

(c) All of the employees of the Museum of the American Indian, Heye Foundation who are serving on the date of the transfer authorized under section 103(c)(1) shall be offered employment by the Smithsonian Institution under its usual terms of employment and may be appointed without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service, and chapter 51 and subchapter III of chapter 53 of title 5 of the United States Code.

SEC. 107. The faith of the United States is pledged that the United States shall provide such funds as may be necessary for the upkeep of the Museum and the administrative expenses and costs of operation thereof, including the protection and care of collections acquired by the Board of Regents, so that Museum shall at all times be properly maintained and collections contained therein shall be exhibited regularly to the general public free of charge.

SEC. 108. (a) There is authorized to be appropriated to the Smithsonian Institution the sum of $3,000,000 in fiscal

year 1988, and such sums as may be necessary for the succeeding fiscal years to carry out the purposes of this Act.

(b) There is authorized to be appropriated to the Smithsonian Institution such sums as may be necessary for the planning and construction, in consultation with the Board of Trustees, of the museum building authorized in section 103(c)(2).

(c) There is authorized to be appropriated to the Smithsonian Institution such sums as may be necessary for the planning and construction, in consultation with the Board of Trustees, of the building authorized in section 103(c)(3).

(d) There is authorized to be appropriated to the Smithsonian Institution such sums as may be necessary for the planning and construction, or other acquisition, of a permanent exhibition facility as authorized in section 103(c)(4).

(e) Any sums appropriated to carry out the purposes of this section may be transferred to the General Services Administration which, in consultation with the Smithsonian Institution, is authorized to enter into contracts and take such other action, to the extent of the sums so transferred to it, as may be necessary to carry out such purposes.

TITLE II

SEC. 201. (a) Within the structure authorized in section 103(c)(2), there shall be established a memorial to the American Indian which shall—

(1) honor and commemorate the contributions made by Indians and Alaska Natives to the United States; and

(2) provide a suitble place for the permanent disposition of certain skeletal remains, as identified in section 202 of this title, of American Indians and Alaska Natives.

(b) It is the intent of the Congress that the memorial and museum authorized in section 103(c)(2) should be completed within 5 years after the date of enactment of this Act.

SEC. 202. Before the close of the fifth fiscal year after the date of enactment of this Act, the Secretary of the Smithsonian Institution shall determine, to the fullest extent possible, the geographical and tribal origin of all skeletal remains of Indians and Alaska Natives that are under the control of the Smithsonian Institution.

SEC. 203. (a) Upon completion of the construction of the memorial authorized in section 201 of this title, the Secretary of the Smithsonian Institution shall inter in the memorial all skeletal remains of Indians and Alaska Natives under the control of the Smithsonian Institution with respect to which the Secretary of the Smithsonian Institution has submitted to the Congress a written statement certifying after comnpletion of the determinations required under section 202 of this title—

(1) that such remains—

(A) have not been identified by the Secretary of the Smithsonian as having been—

(i) associated with a specific Indian tribe or group of Alaska Natives, or

(ii) acquired from a specific archaeological or burial site, and

(B) are not likely to be the subject of any claim or dispute by any Indian tribe or group of Alaska Natives, or

(2) that—

(A) such remains have been identified by the Secretary of the Smithsonian Institution as having been associated with a specific Indian tribe or group of Alaska Natives,

(B) such tribe or group requests the interment of such remains in the memorial, and

(C) such remains are not likely to be the subject of any claim or dispute by any Indian tribe or group of Alaska Natives.

(b) The Secretary of the Smithsonian Institution shall consult with Indian tribes and groups of Alaska Natives to develop proper interment ceremonies, in accordance with Indian and Alaska Native religious practices, that shall be followed in interring skeletal remains.

SEC. 204. (a) The Board of Trustees of the Museum of the American Indian, Heye Foundation shall a establish a Board of Design for the memorial which shall consist of 7 members, a majority of whom shall be of American Indian or Alaska Native ancestry.

(b) The Board of Design is authorized to:

(1) receive designs for the memorial, and where practicable, to extend a preference to designs submitted by American Indians and Alaska Natives, and

(2) in consultation with and subject to the approval of the Board of Trustees and the Board of Regents, make a final selection from among the designs submitted.

SEC. 205. There is authorized to be appropriated for each fiscal year such sums as are necessary to carry out the provisions of title II of this Act.

SEC. 206. For the purposes of this Act—

(1) The term "Indian" means a person who is a member of an Indian tribe, including any individual who is an Alaska Native.

(2) The term "Alaska Native" means any Eskimo, Aleut, Alaska Indian, Inuit, or Inupiat.

(3) The term "Indian tribe" means any tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village (as de-

fined in, or established pursuant to, the Alaska Native Claims Settlement Act), which—

(A) is recognized by the Federal Government as eligible for special programs and services provided to Indians because of their status as Indians, or

(B) was terminated by Federal law after 1940.

(4) The term "Board of Trustees" means the Board of Trustees of the National Museum of the American Indian, Heye Foundation.

(5) The term "Board of Regents" means the Board of Regents of the Smithsonian Institution.

100TH CONGRESS
1ST SESSION

S. 1723

To authorize the establishment of certain regional exhibition facilities as part of the Museum of the American Indian, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 25, 1987

Mr. BINGAMAN (for himself and Mr. INOUYE) introduced the following bill; which was read twice and referred to the Select Committee on Indian Affairs

---

A BILL

To authorize the establishment of certain regional exhibition facilities as part of the Museum of the American Indian, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "American Indian Regional Museum Act of 1987".

FINDINGS

SEC. 2. The Congress finds that—

(1) the collection of Indian art and artifacts of the Museum of the American Indian represents a genuine

national treasure that deserves to be shared by all citizens of this country;

(2) although this museum contains over 1,000,000 art objects and artifacts collected from Indian tribes throughout the United States and is the largest such collection in the world, there are no regional facilities where these artifacts can be displayed for the enjoyment and appreciation of all citizens;

(3) only 5 percent of the permanent collection of the Museum is on public display leaving the remaining 95 percent unavailable for viewing by the American public;

(4) many of these artifacts have been taken from Indian communities, and there is little opportunity for these objects to be returned to the areas from which they were collected;

(5) this denies many people the ability to appreciate the rich legacy of the American Indian and Alaskan Native heritage;

(6) additionally, there is no national interpretative or educational program to provide local schools and communities the opportunity to enjoy the significant collection; and

(7) in order to enrich our appreciation of the cultural achievements of the Indian people, it is necessary

to create a national system of regional facilities where these artifacts can be properly displayed and appreciated.

REGIONAL FACILITIES

SEC. 3. (a) At such time as the United States acquires the Museum of the American Indian, Heye Foundation, the Board of Regents of the Smithsonian Institution, in consultation and cooperation with the Secretary of the Interior, is authorized to establish, in each of the southwestern, northwestern, northeastern, and southeastern parts of the United States, and in the States of Hawaii and Alaska, a suitable facility for the purpose of using each such facility as a permanent regional exhibition facility as part of the Museum of the American Indian, and to prepare such architectural and engineering designs, plans, and specifications of such facilities as may be necessary for purposes of this Act. Each such facility shall be operated and maintained as a regional facility and as part of such Museum.

(b)(1) Each facility established pursuant to this section shall provide exhibit space for Indian artifacts as well as serve as a comprehensive interpretative and educational center that would highlight the significant historical, artistic, and cultural achievements of the Indian people of the region in which such facility is established.

(2) It shall be the function of each such facility, among others, to sponsor and coordinate a variety of traveling repre-

sentative exhibits to schools and to local communities in each region. Such exhibits shall stress the rich cultural legacy of the Indian people and increase educational awareness among citizens in each region.

ADVISORY COUNCIL

SEC. 4. The Board of Regents of the Smithsonian Institution shall appoint an Advisory Council within each region to work with the Institution to establish museum policy with respect to such regional facilities, to oversee museum curation and acquisitions for such facilities, and to provide necessary technical assistance. Each Advisory Council shall have not less than eleven members, and shall be composed of individuals knowledgeable and experienced in the Indian arts and cultures of the region in which such regional facility is established. Preference for membership on an Advisory Council shall be given to American Indians and Alaskan Natives.

AUTHORIZATION

SEC. 5. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

The CHAIRMAN. I am pleased this afternoon to have as our first witness our distinguished senior Senator from the State of New York, the Honorable Daniel Patrick Moynihan.

Senator MOYNIHAN. Mr. Chairman, may I speak rather as a member of the Committee on Rules, this being a jointly referred matter and this being a joint hearing?

The CHAIRMAN. Please do.

STATEMENT OF HON. DANIEL PATRICK MOYNIHAN, U.S. SENATOR FROM NEW YORK

Senator MOYNIHAN. Mr. Chairman, I would be remiss if I did not begin by saying that today, after almost 1 year's extraordinary labor and effort, the report of the Select Committee on the Iran-Contra affair has been released. The senior Senator from Hawaii, Senator Inouye, Chairman of the Select Committee on Indian Affairs has led this effort from the first. The process has reflected his iron integrity and determination to see the laws of this Nation are upheld, and its Constitution abided by and preserved. The report comes to, if I may say so, sir, a majestic conclusion—fearsome in some ways, but majestic in what you have said and what you have shown the Nation about what we have been through.

In summary, you say you find that from the beginning, the Iran and Contra policies were characterized by secrecy, deception, and disdain for law. If ever there was a public person in our history who was the very opposite of secrecy, deception, and disdain for law, it is Senator Inouye of Hawaii, and it is an honor to serve in this body with you, sir. I just wanted to record that.

The CHAIRMAN. Well, I thank you very much, Senator.

Senator MOYNIHAN. The Nation is in your debt, and history will be in your debt.

I don't want to put off hearing from our distinguished witnesses today. I would like to make the point that this is a joint referral to the Select Committee on Indian Affairs and the Rules Committee. I would like to agree with all the things that Senator Inouye has said—and not least to note that the Congress has been involved in these matters.

In 1978 in the Committee on Environment and Public Works, we began hearings on the use of the Custom House which had been inexplicably abandoned in the 1960's or early 1970's and was beginning to deteriorate. The Congress, at the initiative of the Committee on Environment and Public Works and the Subcommittee on Public Buildings, provided some $38 million to restore the elemental soundness of that building, which has been largely accomplished.

In 1787 when it was built it was the most expensive and important building that the U.S. Government had ever constructed outside of Washington. It was built at a time when half the revenues of the Federal Government came from customs collected at the Port of New York. We didn't have an income tax then.

That building is there. It is ready for whatever purposes we think it might best serve.

The question of some sharing of this collection, I think, is altogether appropriate for you to raise. It is an incomparable collec-

tion. The world should understand that there is no other such collection on Earth, no ethnological collection of this range and importance. No such collection exists anywhere else.

It ought also to be said that for all the extraordinary quality of the museums of the Smithsonian—and I am a Regent of the Smithsonian—we have absolutely magnificent collections here in Washington, but they are also equaled elsewhere. The Heye Collection is a collection that is unsurpassed and unequaled.

It is a national endowment. The attorney general of the State of New York will assure you that the trust requires that it remain in the State of New York. How we might share it with the Nation especially with our Native Americans, as we ought to do in any event, is the appropriate subject for these hearings. I have held two hearings of the Environment and Public Works Committee, Subcommittee on Water Resources, Transportation and Infrastructure on this matter, on February 12, 1987 and on July 16, 1987. Anyone wishing a complete history of this matter should refer to them, also. They are available from the Senate Committee on Environment and Public Works.

I would like to thank you, sir, for the spirit in which you have commenced these hearings and in which they will go forward.

The CHAIRMAN. I thank you very much.

Now, it is my pleasure to call upon the distinguished junior Senator of the State of New York, my dear friend, the Honorable Alfonse D'Amato.

STATEMENT OF HON. ALFONSE D'AMATO, U.S. SENATOR FROM NEW YORK

Senator D'AMATO. Mr. Chairman, let me echo Senator Moynihan's praise of your stewardship and leadership as it related to the very difficult Iran-Contra hearings. No one, in my mind, could have been fairer and has been fairer and has a greater sensitivity and appreciation for the rule of law than you. So, I am pleased to echo the sentiments expressed by our senior Senator from New York, Senator Moynihan.

I am also, Mr. Chairman, grateful and appreciative of your graciousness in not only extending an invitation for me to testify today but for the manner in which you have attempted to proceed to give an opportunity for the world and the people of the United States, in particular, to have an opportunity to see this great collection which is now stored in inadequate facilities.

Although we might have some differences on how to solve this issue, I think all who will testify today would share a thought that more must be done. If we can work out a situation that would permit a very liberal policy of extending this great treasure to others, even here in Washington, DC, it should be done.

Mr. Chairman, I have to suggest that the Heye trust which establishes this magnificent collection very specifically requires—and I know our Attorney General will testify to this issue—that this collection be based in New York. I might ask your permission to just share some thoughts which I have put to paper.

It is clear that the Museum of the American Indian needs new space to exhibit its remarkable collection. Mayor Koch and I were

long-time advocates of a plan proposed by the American Museum of Natural History to build a new facility near Central Park West. This plan would have created the largest single collection of Indian artifacts in the Nation, but it was rejected.

For the sake of a unified New York position, the mayor and I announced our endorsement of legislation introduced by Senator Moynihan to convey the U.S. Custom House to the Museum of the American Indian. We took this step because the museum insisted on pursuing out of State options in lieu of a unified New York position.

Our endorsement of the Custom House legislation resulted in what we thought would be that unified New York position, with Senator Moynihan, the Governor, the attorney general, and the Mayor joining in this. Mr. Chairman, the Museum of the American Indian and their outside counsel now find fault with the Custom House plan. This is despite having pursued for years the Custom House as a new location.

They had previously claimed that the Custom House is uniquely suited for a museum. I have to say here, Mr. Chairman, that this raises doubts in my mind as to their sincerity.

Further, the museum representatives have also stated repeatedly that moving to the Custom House would have resulted in a windfall in terms of new fund raising. Now, the Museum of the American Indian claims that the Custom House arrangement will not work because of a lack of money.

Why? I have always suspected that the Museum of the American Indian and their outside counsel have little or no interest in New York despite the fact that the trust requires the museum to be located in New York. Their board has actively pursued leaving the State.

By doing this, the board has really breached their fiduciary responsibility to abide by the trust. The time and money spent trying to leave New York could have been better spent preserving this collection.

New York has presented a compromise plan that is reasonable and deserves consideration. It would allow for a significant portion of the collection to be exhibited in New York and Washington, and I think that is important. I think it should have the widest and the greatest access outside of New York as well, Mr. Chairman. However, the Museum of the American Indian would remain in New York as mandated by the conditions of the trust.

The plan would allow for the creation of a National Museum of the American Indian in Washington, as it should be, and I applaud you for your efforts to see that this comes about. More importantly, the New York plan meets the conditions of the trust and, thus, avoids, Mr. Chairman, costly and time consuming litigation.

I am very much concerned that unless we meet that condition—and I think we can working together with the Attorney General of our State of New York whom I would like to congratulate publicly for his stewardship in seeing to it that those terms and conditions are adhered to. I believe that we can work out the kind of meaningful agreement that will permit this to take place.

Again, I know that under your leadership, if there is a way to work something out sensibly and within the law to meet the objec-

tive of having this great collection of artifacts and treasure by letting people of the Nation see it, you, Mr. Chairman, are the kind of person who can see that it takes place.

I commend you for calling these hearings and for your patience and for your undertaking of a very difficult and thorny situation.

The CHAIRMAN. I thank you very much, Senator, and I can assure you that every effort will be made to resolve this matter. I am certain someday we will have a fine museum in New York City or in some other part of the State and a lovely, grand museum appropriate for our Nation's first citizens on The National Mall.

So, I thank you very much.

Senator D'AMATO. Thank you, Mr. Chairman.

Senator MOYNIHAN. I thank my distinguished colleague and share his views.

The CHAIRMAN. Would you care to join us up here?

Senator D'AMATO. Thank you, Mr. Chairman, for your generosity. I have some other hearings, but I may be able to join you for a while.

The CHAIRMAN. This is just a demonstration of how we operate in the Senate. We disagree, but no one would ever know we are disagreeing. [Laughter.]

We are all very friendly here.

Our next witness is the Honorable Senator from New Mexico, Senator Jeff Bingaman.

Senator Bingaman, welcome, sir.

STATEMENT OF HON. JEFF BINGAMAN, U.S. SENATOR FROM NEW MEXICO

Senator BINGAMAN. Thank you very much, Mr. Chairman.

I appreciate the opportunity to testify, but I first wish to repeat the accolades you have received on the Iran-Contra Affair report which was issued today and also on the great leadership you have taken in establishing a national museum for American Indians here in Washington DC. I am proud to be a co-sponsor of your legislation, and I fully support your efforts to establish a national museum.

As a companion to your bill, I have introduced the American Indian Regional Museum Act. The bill, S. 1723, would authorize the Smithsonian, in cooperation with the National Park Service, to establish up to six regional museums throughout the United States so that more citizens in this country would have the opportunity to enjoy our national treasure of Indian art and culture. It is incumbent upon us to make these treasures available to as many Americans as possible, and I believe a regional museum system is the best method for accomplishing that.

For too long, we have seen a steady erosion and removal of artifacts from Indian religious and sacred sites in all regions of the country. I have seen this particularly in my home State of New Mexico. The cultural legacy of the American Indian, as defined by art, is slowly disappearing from the pueblos and reservations. This legislation would be a small step toward assuring that some of these artifacts are returned to the areas where they were collected.

I strongly support the establishment of a National American Indian Museum as part of the Smithsonian family of museums on The Mall in Washington, but I think the time has come to consider satellite museums that could make these treasures accessible to more Americans.

Mr. Chairman, my interest in this started at a fairly young age. I grew up in southwestern New Mexico near the Mimbres River Valley, the original home of the renown Mimbres pottery. Currently, a substantial amount of this pottery is in two collections at the Heye Foundation's Museum of the American Indian in New York City and Harvard University's Peabody Museum in Boston.

As an undergraduate student at Harvard College, I became aware of the extent to which this treasure was inaccessible. I came to appreciate the art developed over 1,000 years ago by the Mimbres Indians when I toured the Peabody Museum as a freshman. There I saw the extraordinary collection Harvard College had gathered during the 1930's as a result of several expeditions into the southwestern part of the country.

It is wrong, I believe, to have this treasure stored so many hundreds of miles from their home. They can be returned to their origin through the establishment of regional museums. Returning the art and artifacts to their native regions, should be a crucial aspect of our goal with these bills to create an American Indian Museum. Parents of children growing up in New Mexico will not have to bring their children to Washington or to New York to view objects that were taken from their own back yards many decades ago.

Certainly, excellent private and public museums in every State have done an important job in preserving and protecting our history and culture. But I believe my legislation is a necessary compliment.

I have spoken to Secretary McAdams of the Smithsonian, and he has assured me that he is supportive of objectives to increase access to the Smithsonian's collection in all regions of the country, although he is concerned about the creation of any new museums. I am pleased to be able to work with the Secretary to develop alternatives that will achieve the same end through other means. One option we are considering is the use of existing public and private museum facilities, rather than newly constructed ones, to display portions of this collection and to host interpretive programs.

I am pleased to bring to introduce to you two of my constituents, two Indian leaders from my State who have a deep and abiding interest in this legislation. They will both testify on one of the later panels. First, the Honorable Robert Lewis, Governor of the Pueblo of Zuni and a friend of mine for many years. In 1969, Governor Lewis served on our state convention to revise our constitution. Also here today is John Gonzales from the Pueblo San Ildefonso. Mr. Gonzales is the newly elected President of the National Congress of American Indians and a member of the board of the All Indian Pueblo Council in our State.

I also have testimony to submit on behalf of the New Mexico State Historical Preservation Office, the Institute for American Indian Art, the Society for American Archaeology, the Museum of Indian Arts and Culture, and the Wheelwright Museum in my

State. I would appreciate the inclusion of that testimony in the record.

Again, I appreciate very much the opportunity to speak with you and to support your efforts.

The CHAIRMAN. Without objection, those statements will be made a part of the record.

[Prepared statement of Senator Bingaman appears in the appendix.]

[Additional statements submitted by Senator Bingaman appears in the appendix.]

The CHAIRMAN. As a co-sponsor and co-author of your legislation, I think it is highly proper that we should have regional museums to give not only non-Indian Americans but Native American, an opportunity to learn of their heritage and their background so that they can, as the rest of us, begin to realize what a great people they were and they continue to be.

So, I would hope as we progress on this measure, your amendment will become part of the major bill.

Senator MOYNIHAN. Mr. Chairman, I want to very much join in, and it is probably about time I co-sponsored it.

Senator BINGAMAN. We are glad to have you as a co-sponsor.

Senator MOYNIHAN. I think what Senator Bingaman knows but not everyone else may know is, that the Heye collection begins in New Mexico.

Senator BINGAMAN. I believe it does. New Mexico and Arizona were where it originated.

Senator MOYNIHAN. It began with just an old buckskin shirt. Heye was a railroad engineer. He was of that extraordinary generation of the sons of the partners of John D. Rockefeller. We have over here on East Capitol Street an extraordinary collection of Shakespeare's works which was a second generation Rockefeller partner, and this was a second generation Rockefeller partner. I think it may have been a Zuni—I am not sure—it belonged to a worker a on the railroad he was building, and he just liked that shirt. That is where it started, literally.

I think the point to be made here is that there is no shortage of these artifacts. There are lots of them. There is plenty to go around, more than enough to go around. The Heye collection was assembled during the early 1900's up to the in about 30 years up into the 1930's. These cultures were very much alive, very productive, and many of them still are.

So, you are absolutely right. They ought to be available and on display.

I hope you can come down and talk with the regents about this some time. I think there are probably enough museums; there just aren't enough exhibits, and I think that is basically your objective, and I want to share it.

Senator BINGAMAN. Thank you.

I would like to mention one other thing for the record, Mr. Chairman. I asked the director of the Heye collection to me with an inventory of artifacts collected from our State. His estimate was that more than 55,000 items in the collection originate from New Mexico, and that figure does not include the Mimbres pottery, 55,000 items come from tribes and pueblos still in existence.

So, the Heye collection only contains a substantial body of art work, and it should be made accessible to as many people as possible.

The CHAIRMAN. Thank you.

Senator D'Amato.

Senator D'AMATO. I have no questions, Mr. Chairman.

The CHAIRMAN. Thank you very much, Senator.

Senator BINGAMAN. Thank you.

The CHAIRMAN. Our next witness is Congressman Ted Weiss.

We are pleased to have you here, sir.

STATEMENT OF HON. TED WEISS, U.S. REPRESENTATIVE FROM NEW YORK

Mr. WEISS. Thank you very much, Mr. Chairman.

Mr. Chairman and my distinguished friends, Senator Moynihan and D'Amato, let me thank you for the opportunity to appear before you to give you my views on the future of the Museum of the American Indian-Heye Foundation. I commend you, Senator Inouye, for your efforts to work with representatives on the many sides of this issue and for your interest in reaching a compromise agreeable to all.

Let me at the outset express my full agreement with the priorities which you expressed at the luncheon meeting which you convened last month. As you said, we must preserve and protect the Heye collection and display it in a location or locations where it will be studied and appreciated by the greatest number of Americans. I fully and wholeheartedly agree with that.

As you know, the Museum of the American Indian houses the world's largest and most magnificent collection of art and artifacts from the aboriginal tribes of North, Central, and South America. We in New York feel very fortunate to count it among our most precious cultural treasures.

Mr. Chairman, while I appreciate your interest in the Museum of the American Indian, I feel strongly that the resolution of this matter can and should be reached within New York State with your help.

I fully support your efforts to provide a fitting memorial to Native Americans in Washington, DC and, again, wholeheartedly support construction of a superb museum in which to study and display Indian art and culture here. What I cannot support is the permanent transfer of the Heye Foundation collection to that museum.

George Heye established the Heye Foundation as a charitable trust in 1916. Together with Mr. Archer B. Huntington, he built the beautiful buildings along Audubon Terrace which now house the Museum of the American Indian and a number of other scholarly endeavors.

There can be no doubt that it was his intention as a life-long New Yorker to keep his collection in New York. The trust indenture over which Mr. Heye maintained strong control throughout his lifetime so stated.

Again, as you said at an earlier meeting, it will be to no one's advantage and certainly not to the advantage of the collection to

prolong this discussion in the courts. Any attempt to move the collection permanently out of New York would necessarily result in a costly and prolonged lawsuit. You will have the opportunity to hear the legal discussion of this matter from our distinguished New York State attorney general, but let me stress the commitment of those of us from New York to protect the integrity of our State's charitable trusts. If we cannot guarantee their protection, then donors will look elsewhere in the future for the preservation of their collections.

Mr. Chairman, it has always been the intention of the New York political leadership to preserve and maintain the collection in our State. I am certain, though, that it was your interest in and concern for the collection, coupled with the leadership so ably provided by our distinguished senior Senator, Senator Moynihan, that gave the inspiration and urgency that we needed to come to an agreement on this matter. This is a significant occurrence and one that we take very seriously.

When I introduced H.R. 3414 in the House, in essence, the Moynihan bill, on October 1 of this year, there were 23 members of the New York delegation who co-sponsored it. Since that time, six additional members of the delegation have added their support, for a total now of 30 members of the New York delegation out of 34 members.

In the Senate, of course, as you know, both Senators Moynihan and D'Amato are sponsors, and the Governor and the mayor of New York have each pledged substantial financial support for the Custom House move. The mayor has also very generously offered and promised annual operating assistance.

The idea of transferring the old U.S. Custom House at One Bowling Green to the museum is not a new one. The Custom House, a classic 1907 example of the beaux-arts style of architecture on which Senator Moynihan is an expert, is located in the 17th Congressional District which I have the honor of representing.

The building has significantly more display space than the current museum building. Its location is easily accessible to visitors from New York and from around the country, and it would greatly compliment the neighborhood's other cultural institutions. The Lower Manhattan community, in which it is located, is eager to have the museum there.

In fact, the museum's trustees made it very clear during hearings held earlier this year by Senator Moynihan that they wanted to move into that building. Dr. Roland Force, the museum's director, said at that time that they sought the Custom House because "it is a building whose quality, design, size, and location are admirably suited to our needs."

Now that the political leaders of the State and city have come together in support of the Custom House proposal, it is the obligation of the museum's board of trustees to abandon any plans to leave New York.

In the letter submitted early last week by my New York colleagues and me—our Governor, mayor, two United States Senators, the attorney general, Congressman Rangel and myself—I believe that we present a fair proposal that meets the needs and expectations not only of the State of New York but of the Nation. Housed

in the Custom House and at its current location at Audubon Terrace, the Heye collection would be available to the millions of residents and visitors of our country's largest city. And with significant exhibits from the collection on display in Washington and in other parts of the country, it would receive the wide viewership it merits.

In this way, we will all be able to learn about and share the proud accomplishments and contributions of our hemisphere's first inhabitants.

We believe that our proposal to move forward with the Custom House transfer while, at the same time, pursuing a new museum and memorial in Washington with extensive, guaranteed borrowing privileges from the New York collection, is the best way to observe and respect the Heye trust, our Native Americans, and all of the people of our country.

I thank you again very much for your leadership and for allowing me to appear before you at this time.

[Prepared statement of Mr. Weiss appears in the appendix.]

The CHAIRMAN. I thank you very much, Congressman Weiss.

A few months ago at the invitation of Senator Moynihan, I visited the Custom House and was given a grand tour of the building personally conducted by my colleague, the Senator. I concur with you. It is not only an historic building, it is one of the most beautiful buildings I have seen.

The decor is of a type that one will never see again constructed in the United States. Some of the rooms in there, especially the Secretary of State's private office, I think, are something that all Americans should see—that there was a time once upon a time that the real capitol of the United States was not here but in New York City.

So, I can assure you that I would like to be present when the Custom House American Indian Museum is opened. I look forward to that day.

Do you have any questions?

Senator MOYNIHAN. Yes, Mr. Chairman. I want to thank you for your gracious remarks and thank Representative Weiss who has been indefatigable in trying to find agreements and who has the distinction of the difficulty of representing Audubon Terrace, the Museum of Natural History, and the Custom House all in his district.

If I could say, Mr. Chairman, the present site of the museum is obviously not a large enough space.

Here comes our distinguished colleague, Representative Rangel, who joins Mr. Weiss.

I am talking about the Audubon Terrace which is not a large enough site, but it should not be trivialized. This was a great enterprise, a great vision of creating a kind of Acropolis up there on the upper west side. We had at one point several scholarly institutions represented at Audubon Terrace. Well before The Mall began to be developed, this cultural center was forming in Manhattan. The American Numismatic Society is still there today. The American Geographical Society, however, left us and went to Wisconsin.

Mr. WEISS. They also have an office here in Washington.

Senator MOYNIHAN. Well, it is not the National; it is the American, but they have one of the greatest map collections in the world. That is gone.

The Hispanic Institute is still there, and we do very much hope—we not only hope, we require that no matter what else happens, that a museum continue to be present at Audubon Terrace, and I think you agree with that, too.

We thank you so much, sir.

Mr. WEISS. Thank you, Senator. I should also add that the newest 4-year college chartered in New York, Boricua College, an Hispanic college, is also located there. They took the American Geographic Society's location.

Senator MOYNIHAN. That is right, yes.

Mr. WEISS. And I thank you, Mr. Chairman, for your comments, because I also look forward to that grand opening.

The Chairman. Senator Stevens.

Senator STEVENS. I don't want to put a negative aspect on this for my two friends from the House, but history indicates that we haven't been able to raise the money in New York to maintain the museum that exists now. What should lead us to believe that funds would become available if the museum moves to the Custom House?

Mr. WEISS. If I may, Senator Stevens, I think that Senator D'Amato had made some comments just before you arrived when he testified as to the mixed signals which the Museum of the American Indian and its trustees had been sending. The Audubon Terrace location is, as you know, at 155th Street in Manhattan. It is really in the heart of Manhattan, and, yet, the museum has said that the reason that they don't do well by way of attendance is because it is in some remote part of New York.

You should know that the Cloisters, under the auspices of the Metropolitan Museum of Art, is at 191st Street in northern Manhattan.

The fact is that the museum had never felt secure in that location, for whatever reason, and did not undertake the kind of fund raising activities that it should have. It now has a plan which it has prepared and submitted demonstrating that, in fact, it can and will be raising significant moneys. The Mayor will talk about the commitment that the city has made. The State has made a commitment. I think, in fact, it can become a very viable institution.

Senator STEVENS. You don't envision that this would ultimately come back to us as a request to put the Custom House into the Smithsonian Institution?

Mr. WEISS. I do not.

Senator STEVENS. Thank you very much. It is nice to see you.

The CHAIRMAN. Senator McCain.

Senator MCCAIN. I have no questions, Mr. Chairman, thank you.

The CHAIRMAN. Senator D'Amato.

Senator D'AMATO. Mr. Chairman, let me simply say that I think the Congressman is right. There are mixed signals coming from the Museum of the American Indian. I, for one, am somewhat distressed.

At one point in time, they say, well, you give us this facility, and we will go out and raise the money and this is the place and this is

our home and this is where we want to be and no other building will do. Now, we get utterances from them which say that the facility at the Custom House is inadequate, that it doesn't measure up, that they can't raise the money.

I have to tell you, I questioned their sincerity initially as more of a power grab. They said we are going to operate it. It is going to be under our domain. The heck with the public. The heck with the American Indian. We have this little group of 13 or 14 and the director over there who says my God, I am going to run it.

Well, I am sick and tired. I will go along with the group. We have made an agreement, and I am not backing out, but I have to tell you something, trustees and Mr. Director, you are not doing what is fair under the trust. You certainly aren't keeping faith with the American Indians.

I think we have enough common sense here to be able to see through that. Some may not want to say it, because the great editorial writers in New York will skin us for saying it, but that is exactly what has taken place.

I think they have this thing so bollixed up that nobody knows where to go. I think Senator Stevens asked a very legitimate question. Are we eventually going to say well, here we have this magnificent building and we just can't fund it and operate it, so we will put that under an operation of the Smithsonian? I think that is something we have to look at.

Thank you, Mr. Chairman.

Mr. RANGEL. Mr. Chairman, might I have permission of the committee to submit my statement at this time?

The CHAIRMAN. I was just about to introduce you, sir.

Mr. RANGEL. Thank you.

The CHAIRMAN. And if I may, I would like to welcome you to the committee and tell you that it is my pleasure to have you before us, the Honorable Charles B. Rangel, the senior Congressman from the city of New York. We are very pleased to receive your testimony.

STATEMENT OF HON. CHARLES B. RANGEL, U.S. REPRESENTATIVE FROM NEW YORK

Mr. RANGEL. Thank you, Mr. Chairman, and I hope you will permit me to submit my written testimony.

The CHAIRMAN. Without objection, it will be made part of the record, sir.

Mr. RANGEL. And I would like the record to correct the fact that my dear friend and colleague, Mario Biaggi, is the more senior Member from the city of New York, but I thank you for that gracious introduction.

I represent the district in which the museum is now located, and I want to thank you on behalf of New Yorkers, Mr. Chairman, for focusing national attention on the state of conditions which surround this treasure which doesn't belong to my district or to my city or State but, indeed, belongs to our great country.

I think that because of your intervention and your concern, you have been able to bring together all parts of our Congressional del-

egation, both of our Senators. We now have the support of our mayor, the city council, the State Legislature, and the Governor.

Besides the legal complex problems that the trust faces if it finds that it cannot find a place for this great treasure in our city or State, we would want you to do what you have already said that you are willing to do, and that is to let those people who are concerned that we do find an adequate home for this treasure to let us work out whatever differences we have and to give us in the State of New York what we certainly believe every Senator and every Congressional delegation is entitled to, and that is the ample opportunity to work out the problems that we have faced.

Just yesterday, I received a call from someone in the State Economic Development who knew that I was testifying today, and they said that while they had no input into this discussion, we should know in our delegation that if there is anything that they can contribute in terms of supporting our State's position, they want to help.

I don't know, Mr. Chairman, whether we would have had all of this type of volunteer help, whether we would have had this concern, or, indeed, I can say as one who loves my city and State and all of its politicians well, whether we would have had this great degree of cooperation had it not been for your intervention.

However, I do hope that the Members of this august body and especially of this committee do not make decisions that would make it very difficult for us to be active players in making certain that the treasure that we now have in the city of New York and in my district could be actually shared with the rest of our Nation.

I thank you for that opportunity, and I appreciate your affording me this opportunity to share my thoughts with your committee.

[Prepared statement of Mr. Rangel appears in the appendix.]

The CHAIRMAN. Thank you very much, Congressman.

As I assured you earlier, we are aware of the trust instrument. We are aware of the responsibility of the State. The last thing that I, for one, would like to do or would ever do would be to force our proposal on the New York delegation.

Before this committee makes any resolution of this matter, you can be assured that it will be done not only after consultation with your delegation but with the consensus of your delegation.

Mr. RANGEL. I don't think we can ask for more than that, Mr. Chairman, and I thank you for this opportunity.

The CHAIRMAN. Senator Moynihan.

Senator MOYNIHAN. Mr. Chairman, you have heard in Representative Rangel the voice of our delegation in this matter. We want to work with this committee and both our committees. We are here, if I may say, Charlie, as Indian Affairs and Rules jointly.

Presently, there is a Museum of the American Indian, and it is a very fine museum, and it is in your district and not in any sense to be dismissed by virtue of its location. Its location is a magnificent location and meant to be. Well before there was a mall, there was Audubon Terrace.

The spirit in which our chairman here—we think of you as our chairman—is one I know Senator D'Amato and I share, and we thank you for it.

Whatever else happens, the Audubon Terrace site continues open. Right? We are all agreed. You insisted, both of you, and you are right.

The CHAIRMAN. Thank you.

Senator Stevens.

Senator STEVENS. Thank you.

I am glad to see my friend here. He has been very interested in many of the things I have been interested in, and I would repeat what the chairman has said. This is a matter that has to be worked out on a consensus basis within the New York delegation.

I would add a postscript he didn't, and that is if we end up by putting together a compromise in which you maintain your museum, I don't think that would deter me from trying to seek a museum on The Mall, too. We certainly ought to realize that there are enough artifacts from Alaskan and American Indian cultures to fill many more museums and to satisfy the curiosity and the need of the people of the United States and the world to see what is the truth about these great people.

I agree. I think this has to be worked out. I encourage you to continue to work for what you want, and we will try our best to work with you.

Mr. RANGEL. Senator, I couldn't agree with you more. I don't even consider what you said as a viable alternative. I think the Nation's Capitol should have a museum. I think it is a disgrace, as the chairman knows, that we have gone all of these years without doing it, but I don't see where that means that we have to remove the museum that we already have.

You can depend on my support in getting a museum here in Washington.

Senator STEVENS. Something tells me, Charlie, before we are through that it will be the Hawaiian people, the Alaskan Natives, and the American Indians, but we will get there.

Senator MOYNIHAN. And what about the Boricua, the principal Puerto Rican Indian group. So, we have a fourth group to add to that.

Mr. RANGEL. Exactly.

The CHAIRMAN. We would be very happy to have them, too.

Mr. RANGEL. And the Taino.

Senator MOYNIHAN. As usual, Mr. Rangel is right.

The CHAIRMAN. Senator McCain.

Senator MCCAIN. Mr. Chairman, from the rather enthusiastic display here by my friend from New York, there may be some differences of opinion here which I hope we will get resolved, but I am not sure that it is a matter of Senate consideration. Perhaps it is a matter of New York consideration.

I also would like to ask the witnesses or perhaps the following witnesses, what is the opinion of the native Americans on this issue? Have they been consulted by the Congressional delegation? Obviously, Congressman Weiss has 26 co-sponsors. Have the native Americans been asked their opinion on this issue?

Mr. WEISS. No; we have not consulted with any except the governmental people.

Senator MCCAIN. Let me suggest that at least as far as this Member is concerned, the desires of the American Indians, since

we are talking about a museum that is being constructed or at least a repository for their artifacts, would play a key role in what decisions are made as to the future of your museum and as to the one on the mall. So, let me urge you, Congressman Weiss, to perhaps consult with them as soon as possible.

Mr. WEISS. Senator, we have, I think, in our testimony and our approach attempted to live up to the statements and the positions espoused by the chairman which are to make sure that the collection itself is safeguarded and that as many Americans across the country as possible get to see it. That has been our driving force.

I think we have indicated, both Mr. Rangel and I, that there ought to be a museum here in Washington, DC to do that. As to the specifics, however, I think that as you listen to the testimony of the attorney general, you will hear what some of the problems are as to moving the museum itself.

Mr. RANGEL. Senator, let me say this. I don't want to be more specific, but I think it is safe to say that we have not been as organized in the city and State of New York as we would have liked to, and that is why I pay tribute to the Chair. I think that the American Indian is going to be offered a lot of alternatives, but we have not been in a position, honestly, to know that we had that type of financial and political support to really offer them something that they would be proud to have.

So, I think that the drive of this committee is going to force the Indian to look and to see what you have to offer, to come back to the great State of New York, and I think they are going to be in the best possible position.

Senator MCCAIN. Thank you. I certainly with great hesitancy provide any advice to two accomplished and extremely talented and great public servants, but it is a practice on the Indian Affairs Committee, certainly under this chairman, that we don't take action unless the Indians are fully consulted and are in agreement with the actions that we take. That is why I recommend that you initiate communications with them, because this museum will be for the enjoyment of all Americans, but it is basically a museum to preserve the heritage and the contributions that native Americans have made to this country. I think they should be involved in the decisionmaking process.

I appreciate your both being here and your commitment to this museum.

Senator MOYNIHAN. If my friend from Arizona would allow me, I corrected the record before you came in. I had suggested to Senator Bingaman that the collection begins in New Mexico. It actually begins at Kingman, Arizona where Heye was building a railroad and came across some Indian crew members there.

Can I also point out that this is a collection that extends from Point Barrow to Tierra del Fuego. It is not by any means confined by the U.S. territory. It is the whole of the western hemisphere.

Senator MCCAIN. Thank you.

The CHAIRMAN. Thank you very much.

I thank you, Congressman Rangel and Congressman Weiss.

Mr. WEISS. Thank you, Mr. Chairman. May I ask that the letter which we sent to you last week from all the public officials of New York be entered into the record as part of the record?

The CHAIRMAN. It will be made part of the record at this point.

Mr. RANGEL. Thank you, Mr. Chairman and members of the committee.

[Letter from New York officials appears in the appendix.]

[Material to be supplied appears in the appendix.]

The CHAIRMAN. The committee has received a statement from Congressman Guy Molinari, and he has asked that his statement be made part of the record. Without objection, it is so ordered.

[Letter from Mr. Molinari appears in the appendix.]

The CHAIRMAN. Since Congressman Rangel mentioned that there was no proper monument for the Native American, I think it should be noted that the city of Washington has been often referred to as the city of monuments. In the Capitol itself, there are nearly 200 statues. Each State has had the opportunity to honor two great persons. We have a statue honoring a Polynesian king. We have statues honoring Confederate generals and northern generals of the Civil War.

You may look all over this city, and there isn't a single statue honoring an Indian.

Furthermore, it may be of interest to you to know that during the Indian Wars, the Surgeon General of the Army of the United States sent a letter to the officers and men in the field advising our men that he was in the process of conducting a study of Indian crania. So, he directed our men to send to Washington, to the United States Army skeletal remains of Indians, to expedite his study.

We have no idea how many skeletal remains were collected, but we know that graves were robbed and men were stripped from the battlefield. We know this much: the Army turned over the collection to the Smithsonian Institution, and today, we have in the collection over 14,500 skeletal remains of Native American Indians plus 4,000 Native American skeletal remains from Alaska, a total of over 18,000 skeletal remains.

That is why this museum will not be just a museum; it will be a memorial.

Our next witness is the Lieutenant Governor of the State of New York, the Honorable Stan Lundine.

Senator STEVENS. Mr. Chairman, may I interrupt?

The CHAIRMAN. Yes.

Senator STEVENS. I have great interest in this, as you know, and I share with you the desire to work something out in regard to the matters you have just mentioned. I must go back to a meeting on the sequester and how it affects the Department of Defense. I would like to ask unanimous consent that the statement of Mary Jane Fate, who is past president of the North American Indian Womens Association and an Alaskan Native, be placed in the record at an appropriate place.

The CHAIRMAN. It is so ordered.

[Prepared statement of Ms. Fate appears in the appendix.]

Senator STEVENS. I would again urge all concerned to keep in mind that we might not have many viable alternates here. I just hope that the New York delegation—and I am sorry I can't stay for the mayor's testimony—realize my great fear which is that the Custom House proposal is going to end up, even if we build a

museum on the mall, as being something the Federal Government will have to undertake. I am convinced that there must be an up front commitment from New York to maintain the Custom House and to fund it so that we are not going to find that the Heye situation re-occurs and someone 20 years from now sitting in our spots has to fund it. If we have the longevity of others, Mr. Chairman, we might still be here, but I don't think so.

The CHAIRMAN. I think we intend to.

Senator STEVENS. I think we ought to have the financial commitment from New York to be certain that the Custom House proposal will work and not end up with where the Heye Foundation is today.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much.

Senator STEVENS. My apologies to you from New York and, particularly, my good friend, the mayor.

The CHAIRMAN. Our next witness is the Lieutenant Governor of the State of New York, the Honorable Stan Lundine.

We look forward to hearing from you, Governor Lundine.

STATEMENT OF HON. STAN LUNDINE, LIEUTENANT GOVERNOR OF NEW YORK

Mr. LUNDINE. Mr. Chairman and members of the committee, I am here this afternoon on behalf of Governor Cuomo to speak about the Museum of the American Indian and our position regarding the museum's future.

Governor Cuomo regrets that he cannot be here himself to speak to you directly, but the views I express are mine and the Governor's and reflect our continuing interest and efforts regarding the museum.

Incidentally, I ask consent that my entire written statement be made a part of the record, and I will summarize.

The CHAIRMAN. Without objection, so ordered.

Mr. LUNDINE. Over 2 years ago, the State and the city of New York indicated that we were prepared to allocate $13 million each to help the museum. At that time, Governor Cuomo said, "the Museum of the American Indians is an irreplaceable treasure. It would be a tremendous cultural loss to our city and State if the museum moved. Both Mayor Koch and myself are committed to do all we can to help keep the museum here in New York."

Over the last few years, there have been efforts to move the museum from New York. Attorney General Robert Abrams and Governor Cuomo have opposed such moves. We oppose moving the museum from New York on the basis of principle and not just parochial interest.

First, we have a legal obligation to abide by the Heye trust, and, in a larger sense, we have an obligation to respect the wishes of private donors everywhere whose generosity is responsible for the very existence of our Nation's museums.

But even more importantly, it is in the national interest to keep the museum in New York City, a place which receives millions of tourists every year, including over 2.5 million visitors from other

countries. It is an international center of museums, scholarship, and culture.

We have 274 museums and other cultural institutions in New York City alone, including the Metropolitan Museum of Art, the American Museum of Natural History, the Museum of Modern Art, the Guggenheim, the Whitney, and many others.

Senator, you have done a great deal to focus attention on the Museum of the American Indian and its world famous collection. During the nearly 11 years I spent in the Congress of the United States, I took an active interest in Indian concerns, particularly, of course, those of the Seneca Indian Nation in our Congressional district. I am deeply appreciative of what you have done to focus on this collection.

As you well know, we in New York have made an offer of all of our elected officials to keep the Museum of the American Indian in New York City, transfer the Custom House to the museum, to proceed with your proposal to establish a National Museum of the American Indian on the mall here in Washington along with a memorial, and, finally, to enable the new National Museum to have liberal privileges to use the Heye collection here as well as in New York.

We believe that by following these principles, this treasure will be accessible to more people. We believe that it will serve the national interest, and we urge speedy passage of that kind of a compromise of legislation.

This committee is bringing attention to bear, and you are in a position to resolve this long-standing matter. We salute your efforts. We are willing to work with you. We are willing to put the State's resources behind this proposal and to continue to work with you towards a successful resolution of this issue.

[Prepared statement of Mr. Lundine appears in the appendix.]

The CHAIRMAN. I thank you very much, Governor Lundine. Will you please express our gratitude to Governor Cuomo?

We have heard many reports about the role the State of New York proposes to play in this matter and that you have committed yourself to a certain given sum. Has the State of New York committed itself to providing financial support to this establishment?

Mr. LUNDINE. Yes; we have. The State and city will work absolutely cooperatively together, and the State will contribute financially to the museum and to its establishment at the Custom House.

The CHAIRMAN. Is there an indication as to about how much that would be?

Mr. LUNDINE. That commitment is for $13 million.

The CHAIRMAN. I see. I thank you very much.

Senator McCain.

Senator MCCAIN. Thank you, Mr. Chairman.

It is nice to see you back again, Stan. We all miss you, and I know you are doing a great job. Thank you for being here.

Mr. LUNDINE. Thank you, John. It is great to see you. I know you have been an advocate of the American Indian on both sides of Capitol Hill. Thank you.

Senator MCCAIN. Thank you.

The Chairman. Senator D'Amato.

Senator D'AMATO. Mr. Chairman, it is always good to see the Lieutenant Governor.

Mr. LUNDINE. Thank you very much, Senator.

The CHAIRMAN. You must be well liked. Thank you, sir.

Mr. LUNDINE. Thank you very much.

The CHAIRMAN. Now, I have the pleasure of calling upon the distinguished Attorney General of the State of New York, the Honorable Robert Abrams. Mr. Abrams, welcome, sir.

STATEMENT OF HON. ROBERT ABRAMS, ATTORNEY GENERAL OF NEW YORK, ACCOMPANIED BY PAMELA MANN, ASSISTANT ATTORNEY GENERAL

Mr. ABRAMS. Thank you very much, Senator Inouye.

Seated to my left is Pamela Mann, the assistant attorney general in charge of our charities bureau in the New York State Department of Law.

I, too, would like permission, Senator, to be able to have my full text submitted for the record.

The CHAIRMAN. So ordered.

Mr. ABRAMS. I welcome this opportunity to speak before the Senate Select Committee on Indian Affairs on the proposed takeover of the Museum of the American Indian by the Smithsonian Institution.

All of us are concerned with the future of the museum and the collection which, of course, as has been expressed here today—and it is true—is a singular national treasure. We appreciate Congress' desire to establish a fitting tribute to the Native American heritage in our Nation's Capitol.

However, the Heye collection was entrusted by the donor to the Museum of the American Indian, a charitable institution established in and administered under the laws of New York State. As attorney general, I have a statutory obligation to oversee the charitable institutions within our State. The law requires the attorney general to be vigilant in enforcing the restrictions that donors place on their charitable gifts. It requires the attorney general to ensure that the trustees empowered to administer philanthropic gifts devote the trust's assets to the accomplishment of the particular purposes that were ordained by the donor.

This principle is grounded in sound public policy. Trust restrictions often represent the deeply held convictions that motivate a donor to transfer private wealth to the public domain for universal benefit. The guarantee that such restrictions will be enforced even long after the donor's death encourages charitable giving.

Only the courts of New York may modify the trust should a change in circumstances make it impossible or impracticable to carry out the original intentions of the donor.

I understand that the Museum of the American Indian's attorney suggested to this committee last week that maintaining the museum in New York was not a requirement of the trust indenture that created the museum. That is not the case.

A critical purpose of the trust was to maintain the museum in New York. George Gustav Heye, the museum's founder and a lifelong New Yorker, envisioned a New York museum. In 1916, Dr.

Heye placed his collection of Indian art and artifacts as well as what was then a huge sum for its maintenance in a trust whose purpose was "to promote the public welfare by actively advancing learning and providing means for encouraging and carrying on [specified] work within the State of New York."

The indenture also provides for the administration of the trust in New York according to the laws of New York State.

And since its creation in 1916, the museum has operated three facilities in New York City within the State of New York pursuant to the terms of the trust. Moreover, the trust contemplates that one museum will house, protect, and administer the vast collection of art and artifacts collected by George Heye. Dr. Heye clearly opposed the dispersal of the collection, or he would have divided it among various institutions.

According to the museum officers and executive director, the museum has an urgent need for new quarters. Their eight-year search for a new home has been unsuccessful. Unfortunately, in my view, they have concentrated their efforts on moving the museum and the collection outside the State of New York, a quest upon which they are not legally empowered to embark.

The bills before the select committee today would transfer ownership of the entire collection to the Smithsonian, leaving only a satellite museum at the Custom House in New York City. They provide for appointment of the museum's trustees by the Smithsonian's Board of Regents. The museum board's role would thenceforth be limited to overseeing disposition of the collection. The Regents of the Smithsonian would exercise budgetary and fund raising authority, would select the museum's director, and would determine the director's compensation.

S. 1723 authorizes the Smithsonian's Board of Regents, at the time it acquires the museum, to break up the collection by dividing it among the Washington museum, the Custom House, and six regional exhibition facilities.

Each of these proposals violates the terms of the trust which created the Museum of the American Indian. As attorney general, I am obligated to oppose them here and, if necessary, in court.

Relocation of the museum outside the State would plainly violate the terms of the trust under which the museum was created back in 1916. Because there are sites where the museum could flourish within New York State and arrangements under which its finances could be assured, it is neither impossible nor impracticable for the museum to stay in New York, a finding that the State Supreme Court must make before it can hold that the trust may be modified to allow the museum's departure and the collection's dispersal.

As I have already argued in court and will continue to argue, the State court cannot authorize such a move out of State so long as it remains possible and practicable to fulfill the terms of the trust in New York. The Federal legislation being considered here today does not alter this fact.

Nor does the trust permit the museum to be split up into multiple museums. There are no facts to suggest that management and maintenance of the collection in one museum is impossible or impracticable. In fact, dividing the collection and administering as

many as eight museums would be enormously cumbersome and difficult.

The museum cannot make the requisite legal showing necessary to vary the trust terms. The fact is that it is both possible and practicable for the entire museum to remain in New York.

Contrary to testimony received by this committee last week, there has been no ruling on whether the museum may leave New York. Judge Stecher did make a preliminary ruling denying the motion to dismiss the museum's petition on July 9, 1986. For purposes of a motion to dismiss, a court must accept the allegations of the petition as true. On that basis, Judge Stecher found that it would have been inappropriate to throw the museum out of court without any hearing whatever.

The museum's attorney, in his testimony last Thursday, cited the judge's opinion to the effect that "it must be as obvious to the litigants as it is to the court that it was not the intention of the settlor to allow his museum to perish and its collections [to] be dispersed rather than be moved to another State."

Now, omitted last week from the testimony that was delivered by the attorney for the museum, however, was the second half of that sentence. He stopped in the middle of the sentence. There is a semicolon after the last word that he uttered, and the balance of the sentence is as follows: "but as in the case of a personal memorial, we should try to honor the settlor's desire to maintain his collections in New York and preserve its independence, provided we keep firmly in mind his dominant 'objects' and 'purposes.' "

The just also said, "There is no question that Heye identified New York City as the site for his collections and the Secretary of State in New York as the public overseer of the fulfillment of his gift."

Since Justice Stecher's decision and since the introduction of S. 1722 and S. 1723, there has emerged a new and exciting proposal for the future of the museum that has the support of the two distinguished Senators from New York, Senator Moynihan and Senator D'Amato, and the Representatives who have come before you, Mr. Chairman, today, Representatives Rangel and Weiss, Governor Cuomo, and Mayor Koch. In my opinion, this proposal would be consistent with the terms of the Heye trust. It would:

First, maintain the museum at the Custom House in New York with its own board of trustees and continue a satellite museum at its present facility at Audubon Terrace;

Second, transfer the Custom House to the museum pursuant to legislation introduced by Senator Moynihan and Representative Weiss;

Third, establish, in addition, the National Museum of the American Indian on the mall, the memorial, and a site for the interment of Indian remains; and

Fourth, give the new National Museum on the mall liberal borrowing privileges from the Heye collection in New York.

This new proposal accomplishes the objectives of S. 1722 and S. 1723 but in a manner that is consistent with George Heye's intent and which does not run afoul of the trust indenture. It would allow the museum to relocate to the Custom House, a goal the museum's trustees have pursued for many years. The proposal would make

the museum's collection more accessible to the American public. Taken together, the Custom House site in lower Manhattan and the mall in Washington will provide for the public an unprecedented opportunity to view this extraordinary collection.

New York's leaders have worked hard to provide a home for the museum within New York State. New York City and New York State have each pledged gifts—and this is in response to Senator Stevens and Senator McCain and yourself, Mr. Chairman. Each level of government has pledged gifts of $13 million for the Custom House project, providing $26 million of the estimated $35 million that will be necessary for conversion of the Custom House. The city has pledged to pay 25 percent of the museum's annual operating costs if the move is made. These represent major and unusual commitments.

It is my view that the trustees' dogged pursuit of the Smithsonian takeover and other out-of-state possibilities is at odds with their legal obligation to maintain the museum in New York.

I believe that had the trustees cooperated earlier with New York officials in solving the museum's current problems, those problems would have been solved long ago. I hope that we can now resolve the issue of a new home for the museum in a way that ensures the museum's continued operation in New York.

All of us, Mr. Chairman, appreciate Congress' interest in the museum and its desire to make this unique collection accessible to the American public. Senator Inouye, you deserve our tremendous gratitude which has been expressed by every speaker who has come to this table, and appropriately so, for your efforts to find a solution to the problems that we are facing, for being a catalyst in bringing this issue to the nation's front line attention, and for the kind of a solution that I think is possible before all of us. The museum is a national treasure, and it deserves to be shared by all citizens. All Americans should have the opportunity to learn of the cultural legacy and historic grandeur of the American Indian people.

But Congress' goals of preserving this extraordinary collection and making it accessible to the public can be accomplished without flouting George Heye's intentions.

It is a disturbing notion that Congress should enrich the cultural patrimony of the Capitol by taking possession of national treasures in other cities and arranging for their transfer inside the beltway. The Philadelphia Art Museum, the Presidential Libraries, the Chicago Museum of Science and Industry, the Baseball Hall of Fame at Cooperstown, the Alamo Museum, the Getty Museum, and San Simeon in California—each of them enriches America's cultural life because of their continued location on their original sites.

Maintaining the museum in New York will allow Americans and tourists from throughout the world to share its treasures and to enrich their appreciation of the cultural complexity and richness of those who first inhabited the Americas.

It is my obligation to see that the museum continues to function in New York as its donor intended. I remain confident that a new home for the museum acceptable under the law will be found.

I am certain that under your continued guidance, sensitivity, and leadership, we will be able to do something that long ago should

have been done: have an appropriate home and memorial here in Washington, have a strong and viable home for the museum in New York, have lending privileges that will not only enable the new home for the museum here in Washington to get a significant amount of the collection, but to have Senator Bingaman's objectives also be met, so that institutions all over the country will be able to benefit from it.

This collection is so huge—1 million pieces, 40,000 volumes, 80,000 prints—that at any one time in the Custom House, no more than 3 percent of this incredible collection will ever be able to be on display. So, with liberal borrowing privileges, we will have the opportunity for this new museum that is your brainchild, Senator, and so appropriately so, to be able to have so many objects on loan and, indeed, to accomplish what Senator Bingaman wants which is to have those treasures seen by all the people of the 50 States throughout the country.

So, I really think that a solution is at hand. Hopefully, with your continued good will and the good will of the New York delegation, we will see a workable and positive solution to this situation that has confronted us.

[Prepared statement of Mr. Abrams appears in the appendix.]

The CHAIRMAN. I thank you very much, Mr. Abrams.

I have publicly pledged to Senator Moynihan that I will do everything possible to support his effort to make available the Custom House, in whole or in part, for museum purposes. However, I am certain you realize that at the present time, the bankruptcy court is moving in, and the General Services Administration has their own ideas about how this building should be used. So, there is no guarantee that the Custom House will be available.

Having said that, may I pose a hypothetical question, sir? I realize lawyers hate to respond to hypothetical questions. If for some reason the Congress should balk at the proposition that the Custom House be made available for museum purposes, and if the courts should, relying upon the laws of New York, decide that the circumstances have changed to such an extent that the trust instrument can be amended to permit the exhibit to leave the State, what would your position be then?

Mr. ABRAMS. Well, Senator, the court has ultimate authority here. The attorney general has an obligation to pursue the intent of the donor, the settlor, the creator of the trust and argue to the court what is the clear intent of the document, but the courts of New York State will, in the end, have ultimate and controlling decision.

So, if this goes to the highest court of New York State, the Court of Appeals, whatever they decide will be the law of New York.

The CHAIRMAN. The museum curators have advised us that we have in this situation two buildings actually, one the building to exhibit the artifacts and the other, equally important, a building to store and to have laboratories to do work to improve upon the exhibit or to restore the exhibit. The bill that we have, S. 1722, provides authority for appropriations for two facilities, one in the outskirts of the city where the storage would be maintained under the proper conditions.

The $26 million that the city and State of New York have pledged would be for the Custom House, would it not? Are there any provisions being made for the proper storage of the artifacts to protect them for posterity?

Mr. ABRAMS. Pam will come in and correct me if I misspeak, but my understanding is that the Custom House proposal contemplates enough space not only for exhibition purposes but for storage of the inventory of the artifacts of this collection.

Ms. MANN. That is correct.

The CHAIRMAN. Senator Moynihan.

Senator MOYNIHAN. Mr. Chairman, you will have by now come better to understand why Mr. Abrams is overwhelmingly reelected attorney general for the State of New York each time he comes before the citizens and why persons of Pamela Mann's great qualities and capacities are happy to be associated with him in that office.

Could I say, sir, that the GSA at this point does mean to have the Custom House used for this purpose and to build a bankruptcy court complex at Foley Square which we need to do.

However, there is sufficient space in the present building. The Custom House was not built as a museum, but neither was the Louvre, and the Custom House was built to look like the Louvre.

Does that follow? [Laughter.]

We have the greatest respect for Robert Abrams and his testimony. It could not have been more explicit, and his answer could not have been more candid. If the courts rule otherwise, that is it. They will decide, but he will, in the meantime, with Pamela Mann, exercise a vigilant and proper concern for the trust and its intent.

I thank you very much for coming down here, Mr. Abrams, and for all you have done through a decade of difficulty.

The CHAIRMAN. I would like to recognize the Vice Chairman of the Indian Affairs Committee. Senator Evans.

Senator EVANS. Thank you, Mr. Chairman.

They are very interesting proposals. I have had a chance to read the testimony of those who preceded you, although I wasn't here.

It is my understanding that a small fraction, perhaps 1 percent more or less, of the current collection is now exhibited. Is that approximately correct?

Mr. ABRAMS. That is right—about 1 percent of the total collection.

Senator EVANS. It is my understanding, further, that in most museums, including the Smithsonian, probably no more than 5 to 7 or 8 percent of any collection is on exhibit at any one time. So, the storage of that does make a big difference, how it is stored, under what conditions, how it is preserved.

I do wonder about the proposal that the collection be stored, even if there is space—and I don't know enough about the space requirements or the space available at the Custom House—does it make sense to store the collection in what otherwise would be probably pretty high priced office space in downtown Manhattan?

Mr. ABRAMS. Well, I guess there could be a variety of options available. It does make sense if we have that building. I think there are basements and other aspects of that building that would

be available that might not be the most desirable location for visibility.

I personally have seen where the material is now stored, and I think it is imperative for us to find alternative space. I think there are probably economies of having it in one place and one house and one location.

Ironically and interestingly enough, as Senator D'Amato has pointed out in this hearing, it is the board of trustees which was shifting away from other locations in the past which guided us to the Custom House saying that this was the ideal place for the total collection as well as the storage. The trustees pointed to the kind of square footage that was available there, its location, and other qualities that render it the kind of place that is deserving of this extraordinary collection.

I am sure all of us would be open to suggestions that might be more appropriate, as long as they are not in violation of the trust indenture. But if we can have access to the Custom House, it is a fabulous facility architecturally. It is placed in a very prominent position in the shadow of the Statue of Liberty. A new museum is being built right next door, the Holocaust Museum at Battery Park City which coincidentally also reflects the kind of questionable behavior of this board of directors historically.

The director of Battery Park City has told me he made the offer to this board of directors to house that facility in Battery Park City, and they did not move toward that. The previous occupant of the Custom House, as a result of a Federal competition, the Holocaust Museum which was in the Custom House quickly shifted to Battery Park City when they found that that was available.

So, the museum has indicated in the past that they felt that the Custom House would be appropriate not only in terms of the kind of exhibition space available but also storage space.

However, again, my position in all of this is to try to make sure that the trust indenture is not violated. I have not taken strong positions in favor of one site versus another. I didn't think that was my role here. Others within the State have been favoring one site over another. As long as that trust is not violated, then I think I am fulfilling my oath of office.

Senator MOYNIHAN. Would Senator Evans allow me to make a comment at this point about the site?

Senator EVANS. Yes; certainly.

Senator MOYNIHAN. This is the precise site where in 1624 a group of Canarsie Indians paddled over from Long Island and sold Manhattan to the Dutch, thus commencing a long practice along Wall Street of selling things that don't belong to you. [Laughter.]

If it belonged to anybody, it belonged to the Manhattans, and they were up wandering around Washington Heights wondering who were these new people who spoke Dutch, and the Canarsie immediately paddled back, and if we had had an attorney general at the time, he would have been much troubled by that deed of purchase. This is Bowling Green. This is a very special place in America.

Senator EVANS. There are all sorts of comments one who is from 3,000 miles away could make at that point. Who got taken, the Dutch or the Canarsie?

Senator MOYNIHAN. Well, I think the Manhattans, in the end, were the ones.

Senator EVANS. One of the questions—and perhaps I should ask the Mayor or someone else—but I am concerned. I have not personally had the chance to visit the storage site, but members of our staff have, and they are frankly very nervous about the way in which materials are now being stored, the potential danger of fire and other consequences.

Is the city or the State or the Heye trust or anyone at this point able to help ensure the safety of this priceless collection during whatever interim period of time is required—and it will be some years before even the best of solutions comes to pass.

Mr. ABRAMS. I think the quarters are clearly inadequate. I think the museum has taken aggressive steps to try to ensure as best as possible under the present circumstances that the collection be preserved. Senator Inouye before indicated about humidity, and I know that systems have been installed in recent years to try to ensure that.

But I would share the observations and perceptions of members of your staff. When I was a little boy, I would place some of my soldiers in a little cheese crate or egg box and stack them on top of another. That is the way many things are stacked in the inventory here, and we are talking about not little toys but priceless objects that have no price tag.

So, I do think a decision here is important. I think all due deliberate speed is critically important. One would hope that the appropriate steps in the interim are being taken so that there is not any destruction to any part of that collection and that if there is any danger to any portion of it that there be some temporary intermediate steps undertaken to deal with that.

Senator EVANS. One final question. In your role as Attorney General, you have pointed out very clearly on several occasions during your testimony that you would feel it incumbent upon you to defend the provisions of the Heye trust all the way through. What, in your view, would be an abrogation of the current trust? Either the lack of doing something or doing something wrong under the current trusteeship and management of the trust—what constitutes an abrogation?

Mr. ABRAMS. I am not sure I understand your question.

Senator EVANS. Well, there have been suggestions to move, for instance. The trust, presumably, would maintain the collection under its provisions in New York City. How and under what circumstances do you think either the courts or someone would rule that the trustees had not acted sufficiently in consonance with the trust to maintain it? What is required?

Mr. ABRAMS. Well, the basic law is that the only time you would be able to alter the trust indenture that was created by the donor is that if there are changed circumstances, that it has become impossible and impracticable for the intent of the creator of the trust to be fulfilled at the present time. It has been our position, and especially now with the kind of unanimity that has come together by the political leadership of the State, that that standard cannot be met.

Senator EVANS. Would an abrogation of the trust, for instance, be either an unwillingness or inability to maintain the collection in such condition as it could be preserved?

Mr. ABRAMS. You mean for actions to be taken with respect to the board of trustees?

Senator EVANS. Well, the board of trustees presumably has responsibility currently.

Mr. ABRAMS. Correct.

Senator EVANS. And if for whatever they did do or did not do the collection was in danger of irreversible deterioration or problems of that sort, would that be an abrogation of the trust?

Mr. ABRAMS. Well, I have said here today and on other occasions during the public discussion of this issue in recent months that I have concern about certain aspects of the behavior of the board of trustees, and I hold in abeyance and reserve the right to continue to look at that issue and take appropriate steps at any time I deem appropriate concerning those issues.

Senator EVANS. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Senator McCain.

Senator MCCAIN. Thank you, Mr. Chairman.

Mr. Abrams, as I understand your statement, this legislation would allow the liberal borrowing and loaning of these artifacts around the country so that all Americans could enjoy and appreciate them. Is that correct?

Mr. ABRAMS. Yes; that is the joint proposal of the Governor, the Mayor, the two Senators, the members of the Congressional delegation, and I opined and subscribed to that letter because I said that would be consistent with the provisions of the trust.

Senator MCCAIN. These Indian artifacts come from all over this country, don't they?

Mr. ABRAMS. As Senator Moynihan indicated, not just this country but the entire hemisphere.

Senator MCCAIN. Yes; as far away as Peru and other places. And Mr. Heye collected them in some fashion or another, and Native Americans believe that perhaps they have some claim as to the disposition of these artifacts, don't you think?

Mr. ABRAMS. Well, if there were any claims of any individual pieces, I think those should be heard and dealt with. We are talking about a collection of more than 1 million artifacts.

Senator MCCAIN. Would you believe that they would have some say as to the disposition and care and treatment of these artifacts?

Mr. ABRAMS. I think all of us would welcome the opinions and attitudes of any resident of the State or, since the chairman has made this a national issue and, as he indicated, I understand there will be representatives of Native American tribes from different parts of the country testifying as members of a panel here this afternoon.

Senator MCCAIN. Well, I would hope that when they are disposed in the Custom House that they will also be consulted at that time.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much.

Senator D'Amato.

Senator D'AMATO. Mr. Chairman, let me express my appreciation for the attorney general's handling of this matter. It is a matter that sometimes has become quite difficult, has been overly politicized, and he has taken a clear course of action pursuant to his obligations as attorney general. He deserves to be commended for the manner in which he has pursued this.

Bob, I want to commend you for your clear-sighted determination to see to it that you uphold your responsibilities notwithstanding the inordinate pressures that have come to bear from so many.

Mr. ABRAMS. Thank you.

The CHAIRMAN. Mr. Abrams and Ms. Mann, I thank you very much. You have been most helpful.

Mr. ABRAMS. Thank you, Senator.

The CHAIRMAN. Now, it is my pleasure to call upon the premier mayor of the United States, the mayor of the city of New York, the very distinguished Honorable Edward Koch.

Welcome back from Nicaragua, sir.

Mr. KOCH. Thank you, sir.

STATEMENT OF HON. EDWARD KOCH, MAYOR, CITY OF NEW YORK

Mr. KOCH. First, if I may, Senator Inouye, I would like to say with the greatest of sincerity that while everyone knows of your reputation as a remarkable person of courage on the battlefield and in the Senate, I don't think as many know of your extraordinary gentleness and consideration of witnesses and of substantive matters that come before you. I sat here from the beginning of the hearing, and I want to express the appreciation of all of New York for the open-minded spirit that you have displayed, and I am very grateful to you.

I want to say to the members of the committee that I am here as a clean-up hitter. I want to just cover all of the subjects and if there have been things left out to fill them in.

First, everybody should know that New York State is the premier Indian State. Let me demonstrate that for you.

I think most people are familiar with the Iroquois Confederation, but what they are not familiar with is that the Iroquois Confederation, made up of the six tribes, Mohawk, Oneida, Onondaga, Cayuga, Seneca, and Tuscarora—and the latter came from the Carolinas and joined the Confederation—was the basis of the Articles of Confederation for the United States. That is something most people don't know. Our Articles of Confederation were based on the Confederation of the Iroquois.

Now, we are so involved with our Indian heritage that when the Governor of the State of New York is sworn in, the paramount chiefs of the Iroquois Confederation lead the way down the aisle in full regalia. We are so imbued with the Indian tradition that 100 percent of the Democratic clubs of the City of New York for bear Indian names. All of the local clubs bear Indian names such as Tammany Hall. Tammany is an Indian tribe.

Now, I say that to you because I think most people think of the Southwest as the heartland for Indians. It is not true, not in any way to denigrate the Southwest.

Why do we want this collection? Because it is part of our heritage. What are we willing to do to preserve this collection? We are here also to give you a little history of why we are here discussing the various approaches.

I would not be harsh on the Museum of the American Indian directors or its executive director. They kept this collection together in very hard times. I would give them full faith and appreciation. It is a religion with them, and you should know that on that board are American Indians.

So, the board seeks very much to preserve this collection. Their desire to keep it whole, separate, and apart from everything else has brought us here. Originally, there were some of us, myself included and Senator D'Amato, who believed perhaps we could meld it with the Museum of Natural History which also has a collection.

Senator Moynihan, with foresight, took a different position and the one that we are all now supportive of, and he was there more than a year ahead of everybody else as it relates to New York—for which we thank you—and that was and, I believe, is, the position of the Museum of the American Indian.

Why, then, do they come down here and lend their arguments in a way that allows for ambiguity. It is easy. If you are the Museum of the American Indian, you don't want to come down here and say well, we are for the Moynihan bill and alienate those who are offering an alternative which, if we don't get the Custom House, say the directors of the Museum of the American Indian, of course we will take the other.

So, it is not to condemn them for their having a position which can be discussed as ambiguous, to say the least. But I can tell you that in every other conversation that we have had with them when they are not placed in between that hard rock and hard place, they are for the Custom House. Given the sure option of the Custom House, they are for the Custom House. They have said that to us.

What are the city and State of New York prepared to do to make that a reality? You heard the Lieutenant Governor commit the State as the Governor heretofore has, to matching the city's involvement for capital funding, $13 million each for a total of $26 million. But the city has gone even further, and the State has told us that they are going to seek to match it. I don't want to commit them, but they have said that they are going to seek to match it and put it in their budget. We are going to assume 25 percent of the operating budget of the Museum of the American Indian. That is a greater percentage than we now fund the Museum of Natural History or the Metropolitan Museum which gets less than 25 percent from us.

In addition, the Governor, the two Senators, David Rockefeller, and myself are pledged to help them in fund raising for their endowment.

I meant to say in the historical perspective, even the great name of Hiawatha is the name of a paramount Indian chief of the Confederation. That has to come as a shock to most people.

Now, aside from the enforcement of the trust provisions—and I think that the Attorney General did a superb case in presenting the arguments, and they will be recorded twice because he gave

them orally and he asked permission to place the full statement in the record [Laughter.]

Aside from the legal arguments, there is a question of fairness and also who will see this collection. The city of New York gets 17 million tourists a year. It is the international capitol of the world by almost everybody's agreement.

The Custom House is a glorious building. I did not know it was modeled after the Louvre which I have been to. It is an extraordinary building, and it will encompass and be adequate for the entire collection and the laboratories and the research and simply to maintain the collection. As one of the Senators pointed out, in the best museums, 5 to 6 percent of the collection is ever on view.

So, that means that over 90 percent of that collection is available to be viewed elsewhere in a revolving way. We are all in accord. We would like to have an exhibition space in Washington.

Now, it is not fair to say that there is no Indian museum in Washington. There is. The Smithsonian has an Indian collection, and there isn't any question but that Indian ought to be given greater light and attention and supplemented in a revolving way by the Heye collection from New York.

However, to take from us our heritage isn't fair. It is simply not fair. In the very seal of the city of New York is the Indian. The Indian is part of our seal along with the colonists and along with the Dutch windmill and the beaver. That is our seal. That is our heritage.

I think I left out one other aspect relating to the operating budget. I mentioned to you that we are pledged to pay 25 percent of the operating budget, and the Governor has told us that he will seek to do the same. He has to get it into the budget. So, that is a commitment on our part and a statement on the Governor's part to me which, in effect, if executed, will provide 50 percent of the operating budget of the Museum of the American Indian.

Earlier on, a question was raised, will this museum, once given to us, come back to Congress for funding. The answer is a categorical no. That museum will be the obligation of the city and the State of New York and the people of the city and State of New York.

The Governor said one other thing to me when I spoke with him several months ago on this issue, because he is as committed to this as I am. He said, I want to tell you, Ed, the history of the Indians, the nationhood of the Indians is more important to the State of New York, more relevant, than even to the city—to demonstrate his commitment to me.

I would quarrel with him about that, because I think you can't get any more Indian than we are in our city. Nevertheless, I accept a full and equal partnership.

In the spirit in which you made that original offer here and also in our earlier conversations where you really were conveying very much the same, I want to thank you. I want to thank you for extending the hand of friendship and the pipe of peace.

Thank you.

[Prepared statement of Mr. Koch appears in the appendix.]

The CHAIRMAN. I don't see how anyone can be unfriendly with you, sir. I thank you very much, Mr. Mayor.

Once again, I want to pledge to you as I did over the telephone that everything will be done to resolve this matter mutually.

Mr. KOCH. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Moynihan.

Senator MOYNIHAN. Again, I thank you again, Mr. Mayor.

The political clubs of Manhattan—Manhattan for the Manhattans—were indeed named after Indian tribes, and we reached the point where we had run out of Indian tribes and we had to start making them up as in the case of the Tamawa Club. Right?

We much agree with you. The delegation shares your views entirely.

The CHAIRMAN. Senator Evans.

Senator EVANS. Thank you.

It is a delight to have you in front of us, Mr. Mayor. I just have one question. Did the State and the city offer the $13 million each in partial support of the museum at what time? After this——

Mr. KOCH. No, early. We made that offer not just for the Custom House. We made it when our proposal was that they join with the Museum of Natural History. That commitment was made at that time, not now. Then, we said when the agreement was to go to the Custom House, we would take that same capital commitment and bring it to the Custom House.

Senator EVANS. Was this made subsequent to the offer—I guess Mr. Perot at one time wanted to buy the whole collection and move it to Texas.

Mr. KOCH. I think it was at that time, yes. The original——

Senator EVANS. We should thank Mr. Perot for support from the State?

Mr. KOCH. Yes; the fact is what we asked him to do was consider providing some of the $70 million that he was offering at the time to the continuation of the museum in New York and that we would lend items to Texas. He declined to do that.

Senator EVANS. I see. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator D'Amato.

Senator D'AMATO. Mr. Chairman, let me once again express my appreciation to your serving your legislation as a catalyst to possibly bring all of the various viewpoints together. The Mayor has quite accurately portrayed the situation. He does so with a charity that I find more difficult to accept with respect to some of the motivation behind some of the activities that the trustees for the Museum of the American Indian have taken, and I would like to feel that that is the case.

If it is the case, I certainly renew my commitment to work with the Mayor and with Senator Moynihan and our Governor and with you, Mr. Chairman, because I do believe we have at hand an opportunity not only that will be beneficial to New York, to the interests the Attorney General has testified to, to the trust, to the spirit of that trust, but really to all of the people of this Nation and to the American Indian and his art and his life and his culture that could really serve as a great catalyst.

So, I thank you, Mr. Chairman, and you, too, Mr. Mayor.

Mr. KOCH. Thank you.

The CHAIRMAN. Thank you very much, sir.

Mr. KOCH. Thank you very much.

The CHAIRMAN. Our next witness has played a major role in this endeavor for many years, first as a Member of Congress and now as President of the World Bank. I am pleased to call upon the Honorable Barber Conable.

STATEMENT OF HON. BARBER CONABLE, PRESIDENT, THE WORLD BANK, AND FORMER CHAIRMAN, BOARD OF TRUSTEES, MUSEUM OF THE AMERICAN INDIAN

Mr. CONABLE. Mr. Chairman and distinguished members of the committee, I greatly appreciate the chance to appear here. I must tell you I appear not as President of the World Bank. For practical reasons, I am prohibited from appearing before the legislative bodies of the Bank's 151 member countries. I am afraid the Bank could not be administered were I to be that accessible. I appear here today as an American citizen and as a person who has been involved in the issues affecting the Museum of the American Indian, both as a member of the Board of Trustees and as Chairman of the Board for slightly more than 2 years prior to my getting into this international trouble.

Senator Moynihan and I first became involved with the Museum of the American Indian in an effort to get the Customs House as its situs early in the 1980's. At that time, a decision was made—I don't know by whom—that the Customs House would be used instead as a Holocaust Museum. Subsequently, the Holocaust Museum decided to go elsewhere, and the Customs House remained, as it had for some years previous to that time, unused.

However, the GSA started to fix it up, and it was contemplated that it would be used as a Federal office building, combining many of the leased Federal office spaces in New York City in this one building.

We acknowledged at the time we were seeking it that it was not the optimal museum building. It is a beautiful building, not designed as a museum, but it was so far preferable to the location in which the museum had been placed by the original founder that it appeared to be a substantial improvement. The gross footage in the Customs House is roughly 460,000 square feet. The current gross footage in the Audubon Terrace is about 40,000 square feet which necessitates the storage in another place in the Bronx some distance from the museum site and the museum's library in a totally different location.

As a result of my interest at that time, I went on the Board of the Museum of the American Indian and was subsequently elected Chairman of the Board. In that capacity, I have changed my view on a number of occasions about what was the best option for the museum, because, quite frankly, the circumstances changed quite dramatically as time went on.

Frankly, we were running out of money. This has been a troubled institution for some time, and we were deeply concerned as trustees about the conservation of this unique, magnificent, and absolutely irreplaceable portion of the heritage of Native Americans. It appeared that as trustees we had a fiduciary obligation to do something not to permit the collection to fall into such disarray

and disuse that it was lost or that it was merged in some way and the heritage of the American Indian was subsumed under an institution with a different purpose.

When I first became Chairman of the Museum, we hoped we could get together with the American Museum of Natural History and that they would build us a separate building adequate for our purposes, preserving the identity of the collection. We had extensive negotiations with them over a long period of time, starting with considerable optimism and gradually, during the negotiations, losing confidence that it was possible to maintain our goals and preserve the significant involvement of Native Americans on our Board—currently, there are 21 members of the Board; 8 of them are Native Americans—and still negotiate a role within the American Museum of Natural History and subject to their complete control.

At that point, one of our trustees contacted Ross Perot, the wealthy Texan, who made a very substantial offer to us. I don't think it is necessary to go into the terms of it, but it appeared to be far preferable to anything available to us in New York.

I must say that we have investigated many sites in New York and have not been able to find anything that we felt was suitable for a collection of this dimension.

When the offer came in from Ross Perot—and Mr. Perot was very forthcoming and very direct in his relations with us—he wanted to move the collection to Texas. At that time, we began the current litigation feeling we could not carry out the obligations of the trust and still stay in New York.

At that time also, obviously, the State of New York and the city of New York became greatly concerned. They had previously, as Mayor Koch said, suggested that they would make contributions if we would be willing to permit the merger of our institution with the American Museum of Natural History, something that we decided against after these extensive negotiations I have mentioned.

The lawsuit dragged on. It must have been more than 2 years ago that the lawsuit was filed. David Rockefeller went to President Reagan after I had an extensive talk with him about our concern that we couldn't seem to work anything out with New York other than the American Museum of Natural History and that our trustees would not consent to what they thought would be a loss of identity and a loss of Indian involvement in the process.

The President decided that he would favor the giving of the Customs House to the Museum of the American Indian. The problem is that Federal property cannot be given without special legislation if it is transferred for less than the appraised value and, of course, the Customs House is on a tremendously valuable location.

Therefore, Senator Moynihan and Congressman Udall agreed to file bills that would support the transfer of the Customs House to the Museum of the American Indian. The problem was that substantial opposition within the New York Congressional delegation at that time made it apparent that the legislation would not progress.

Mr. Chairman, an effort was made to compromise the issue by making a portion of the Customs House available for the Bankruptcy Court of the United States, and the fifth and sixth floors of the

Customs House have now been reconverted for the purposes of a courtroom so that the first, second, third, fourth, and seventh floors only would be available unless the Bankruptcy Court was to move from the Customs House.

I understand there is some agreement that they will locate at another place, but that is not a specific part of the legislation that has been introduced. It would have to be worked out.

Subsequently, you expressed an interest in this institution. You went and looked at the collection and discovered its true dimension and remarkable quality, and the issue arose as to whether or not it could come to the Smithsonian.

I must tell you, sir, that I have tried to interest the Smithsonian over a number of years in this institution, and under earlier management, the Smithsonian had no interest in the Museum of the American Indian. A great deal was on the Smithsonian's plate. Perhaps it would be fairer to say that they had an interest, but they could not accept the responsibility and did not see it as a high priority item in view of the other commitments that they had made.

The current management of the Smithsonian has a considerable interest, as you know. Encouraged by your support, they have suggested that the museum could come to Washington.

Mr. Chairman, I do not wish to take a strong position as to where this museum should be. I believe the important thing is that this remarkable collection be kept intact, that it be kept available for scholars but preeminently for access by the American Indian community and by Americans generally.

It clearly could be in either New York City or in Washington. I would say the optimum location is in Washington, but as a New Yorker, clearly, I feel some tug if we are going to move the institution out of New York. I hope some compromise can be worked out that will satisfy the authorities in New York.

I must say that there are going to be problems of control if the collection is divided, and I hope those can be worked out also in some way that will be appropriate and will preserve the right of a significant number of Native Americans to participate at least in an advisory role with respect to the maintenance and display of this remarkable collection.

If it stays in New York City and is still a private institution, albeit supported by contributions from the State and city of New York, clearly there will be major expense in the reorganization of the Customs House as a museum building, and that will require a nationwide fund-raising campaign.

I think it unlikely that the Smithsonian will want to contribute significantly to an institution outside Washington. As you know, there are practical problems for Members of Congress in voting funds of this sort for special purposes outside the general locus of the Smithsonian, although they have done it in some cases. These have not worked out very well, at least in terms of the case of Congressional support.

So, there are problems if the collection is divided, and we will have to rely on your Solomonic wisdom to resolve these problems.

Whatever you do, I ask that you not divide the collection in any permanent way, that it be preserved in a way that will permit

access and the conservation of the fragile nature of many of these cultural artifacts, and that adequate financing be guaranteed to permit display, storage and access, as well as significant restoration work which is needed on many artifacts made of wood, feathers and leather buckskin and all the fragile elements of the Indian cultural heritage.

The struggle to save the collection has been a long one. In the early 1970's, I understand, before my interest in this and before any of the current Board were members, some of the less significant artifacts were sold in an effort to raise money to continue to maintain the collection. As a result, the then-Attorney General of New York State removed from office all the Board of Trustees and the Director and replaced them with an entirely new Board, feeling that they had violated their trust.

The Board of Trustees feels it has a real fiduciary responsibility to protect the collection, above all. Many of us are New Yorkers and would prefer to see it stay in New York, but it must stay in New York under circumstances in which the future of the collection can be assured.

That is one of the issues that I have to present to you as unresolved at this point, thus suggesting from the point of view of access and the point of view of conservation the value of the Smithsonian option.

Clearly, the Board of Trustees is willing to accept a major responsibility. I have to tell you that they are a collection of Native Americans and anthropologists, for the most part. There are comparatively few financial heavy-hitters on the Board, and that has been a problem all along. We have been told that we could not raise significant amounts of money for a museum so badly fragmented, so poorly displayed because of the constraints of space, and located as it is now. Therefore, it has been absolutely essential that we resolve the issue by finding some new location. That has been our quest.

I think that is all I have to say at this point, sir, except that we are greatly heartened by your interest. It has been an agony of travail, struggle, to try to keep this institution together and to try to preserve it as a significant part of our heritage here in the Western Hemisphere.

The CHAIRMAN. As to your two concerns, may I assure you that it is not the intention of this committee to break up this collection in any way, and we have pledged ourselves to do whatever possible to make certain that this collection is preserved, because we fear that if nothing is done at this stage, it will, by natural recourse, deteriorate. That would be a national obscenity.

I thank you very much for your testimony, and I would like to now call upon Senator Moynihan.

Senator MOYNIHAN. Mr. Chairman, it would be characteristic of Barber Conable that he not mention his own quite extraordinary achievements as a collector and as an ethnographer. There have been few laymen ever to serve on that board who could speak with such authority on subjects of particular interest such as the woodland Indians of the northeastern part of the United States.

Mr. CONABLE. At least I can pronounce the names of the tribes of the Iroquois correctly, Senator.

Senator MOYNIHAN. Yes; is it true that Giche Gume is Lake Onondaga?

Mr. CONABLE. No; Giche Gume is a Chippewa word and, as such, has nothing to do with the great Iroquois myths relating to Dagonoweda and Hiawatha which are themselves mispronunciations of the original Indian names for the founders of the great League of the Iroquois.

Senator MOYNIHAN. See what I mean?

Probably Giche Gume is more like in Wisconsin, right?

Mr. CONABLE. Well, the gentleman who visited Henry Wadsworth Longfellow was not an Iroquois, and he needed some Indian names. Probably by Giche Gume he meant Lake Superior, far removed from the Iroquois.

Senator MOYNIHAN. We do have Hiawatha Boulevard in Syracuse, and he legitimately is in Syracuse because the council fires of the Iroquois were there.

Mr. CONABLE. Mr. Chairman, this is the kind of conversation Senator Moynihan and I always have.

Senator MOYNIHAN. Two things. One is whatever we do, we want to make sure that this collection goes on. I expect you still do some collecting, but it gets more difficult, does it not, with the present museum?

Mr. CONABLE. Well, Senator, there have been very few contributions to the Museum of the American Indian in recent years because of concern about the future of the institution. Were we to have a suitable location, there are thousands of collectors around the United States who have to some degree preempted the heritage of the American Indian through their amateur archaeology and through their collector's interest over the years. Many of them would like to see their collections in a location which does credit to the quality of their collections.

So, I suspect that were we to have a national collection of the American Indian, a great many additions would come into this collection, and it would not just be the million-plus cultural artifacts that now make up the Heye Foundation but many voluntary augmentations to it.

In fact, the collection is itself so large and so duplicative that, as suggested, significant collections could be taken from it and circulated around the United States to the various Indian reservations and museums which have inadequate artifacts available to them now, without detracting from a significant exhibition in the main locus of the museum. That is speculative, but I have to acknowledge that the future of the collection probably is considerably greater than the past, because we have been so constrained by space and lack of endowment and the incapacity to raise funds, that very few people could have confidence in the future of the collection until now.

Senator MOYNIHAN. Would I be right in thinking that with proper facilities the museum could commence what you might call classical archaeological work? Not only collecting, but the actual dating by carbon 14 and the kinds of things which are done at Oneonta with increasing success—dealing with very early civilizations which had all disappeared by the year 1500?

Mr. CONABLE. Well, it has been a shame that this institution has not been maintained by adequate scientific research and archaeology. It has not been because, again, of financial constraints. The potential there, were we to have a premiere national collection of the American Indian, would be very great indeed.

Senator MOYNIHAN. The Heye collection was pretty scientific if you like that word. It might interest Senator Evans that they did something brilliant. When Heye sent someone to a village, he bought everything.

Mr. CONABLE. Yes; Mr. Heye was what could be described as a voracious collector.

Senator MOYNIHAN. And for purposes of a study, if you have everything, then you know what the range of things is instead of just going in and getting the best piece.

Mr. CONABLE. It was the voracious nature of his appetite for collection and the time in which he operated that permitted the accumulation of this remarkable collection. It could not be done today at any price.

Senator MOYNIHAN. And its scientific value is its comprehensiveness.

But we are into an era where Indian artifacts are pre-Columbian and from millennia back, and you get into the world of digging archaeology which is a very important role, too.

Mr. CONABLE. There are many pre-Columbian pieces. Of course, some of the most significant parts of the collection are from the Contact era, and they include artifacts of many of the most famous Indian leaders that ever lived.

Senator MOYNIHAN. Right. The chairman was pointing out that he was touring the warehouse in the Bronx, and found Sitting Bull's Winchester.

Could I just ask, if we had to think of apportioning displays, you could think along such lines as the North American Indian and other parts of the hemisphere. For example, one of the contributing things, the wampum belt that sort of solemnized the sale of what is now Pennsylvania—William Penn and the Lenape—that is in the collection. That was given to him by a friend who said well, you are collecting these things; you might want to have this.

That might more appropriately be on the mall than have to be in Manhattan. I just want to suggest you might find a logical division as against just dividing everything half here and half there for purposes of exhibits.

Mr. CONABLE. I think a wise curator could devise all kinds of permutations. The important thing would be to preserve the logical integrity of the collection, not to see it split in such a way that it would become dissipated and become dissipated as a research tool, because it is tremendously important in studying the origins of the Native Americans.

Senator MOYNIHAN. It has been conservatively suggested there are two centuries of research to be done on this work.

And if it does—and it will happen—it is as much because of this one man, Barber Conable.

It is an honor to have you before this committee, sir.

Mr. CONABLE. Thank you, sir.

I apologize for not having a written statement. It is a little outside my current field, and I find it hard to justify the investment of time that would be required.

The CHAIRMAN. Senator Evans.

Senator EVANS. Thank you, Mr. Chairman. It is a delight to have Barber Conable in front of us in quite a different capacity than his current professional one, although it sounds to me like he is as professional in certain aspects of Indian artifacts and collection as he is in the banking field.

Mr. CONABLE. Sir, I am not a banker. I am a development man now.

Senator EVANS. I will accept that correction.

It seems to me it is important to distinguish between the exhibition and the curatorial nature of museums, and I have a suspicion that much of the concern expressed in and by New Yorkers has been over both the potential of added exhibition space and better exhibition space and the thought that somehow a transfer of many of the artifacts would mean a loss of opportunity for exhibition.

Would it be accurate to say that there are probably enough artifacts of real public interest to regularly fill half a dozen regional museums and still have an awful lot left over?

Mr. CONABLE. Yes, Senator; if we were to have only a portion of the Custom House, we would have to maintain the other two facilities to store and conserve the property as well. Indeed, a significant part of the collection would not be able to be displayed in the Custom House even though it has 440,000 gross square feet.

So, there is a tremendous volume that would have to be stored. It should be stored under much better circumstances than it is now. This is one of the things that has been rankling the trustees for some time. It is their inability to guarantee the preservation of the collection as it was, and that is why we have had almost a frantic effort to try to find someplace and to interest officials in support of a significant enough situs so that it could be achieved.

This is not just a little museum that can be tucked somewhere for a modest amount of money. The commitment has to be a very large one. Unfortunately, many of our officials, however good their intentions, have simply not understood the dimension of the problem that faced the museum.

Senator EVANS. Would it be also accurate to say that if at some time in the future we ended up with an American Indian museum on The Mall, a better location in New York City for display, and four or five regional—say, a total of——

Mr. CONABLE. Well, I would suggest that if you are going to do that, the director would be instructed also to make available, with appropriate safeguards, some traveling exhibitions which could move around the country and improve the access of Americans, Native Americans in particular, to the various aspects of this remarkable collection.

Senator EVANS. What I was suggesting was even a potential that if you had six museums and, say, seven traveling exhibits, you could once a year or at whatever appropriate time shift those around and for the better part of a decade could have constantly changing exhibits at each of the museums and still have a very

large percentage of the collection in storage or available for research.

Mr. CONABLE. There are all kinds of possibilities of that sort, Senator. The only thing is, I would urge you not to start with the idea of building six or seven museums. I think under Gramm-Rudman it is going to be hard enough to achieve a more modest part of this.

Senator EVANS. I am not——

Senator MOYNIHAN. Well, I think Senator Evans said traveling exhibits.

Mr. CONABLE. And you are talking about tribal museums on reservations. That is one of the tragedies of the current American Indian scene. The U.S. Government, in many cases, has built very attractive museums on reservations, but, unfortunately, the barn was made available after the horse had already run away.

Many of the cultural artifacts that were deeply rooted in the culture of the American Indian had already been sold, stolen, or had in some way walked off the reservation. Thus, what is available in many of the tribal museums is only current cultural artifact rather than the great historical pieces which are so richly represented in the collection of the Museum of the American Indian.

Senator EVANS. Finally, leaving the exhibition side, it seems to me if there is a problem on the exhibition side, it is finding exhibition space to adequately display even a fraction of what is now available.

Mr. CONABLE. But there is also the problem of space in a location where the public will have access to it.

Senator EVANS. Oh, yes. I agree.

Turning to the curatorial for storage, research, maintenance, and all of the other activities that most people never see, where in your view ought that to take place? If the Smithsonian, for instance, were to be a partner in this operation, they have extensive curatorial facilities and opportunities. Would it make sense to join those in one location?

Mr. CONABLE. Again, almost anything is possible, Senator, but I think it should be under the control of one body. Incidentally, in that respect, I want to say that the trustees of the Museum of the American Indian are not doctrinaire about the form of control that they should have, if any, in the event the museum changes significantly in form or in patronage.

But the important point among our trustees is that whatever body is either advising or controlling the process should have a significant representation of Native Americans on the Board. As I said, there are 8 Native Americans on the Board of 21 now.

This was one of the problems with the American Museum of Natural History which wanted a total merger of the collection. Therefore, the Board that would wind up controlling the collection would be a Natural History Board and not a Board which had significant interest in Native Americans.

Of course, natural history, you could say, includes Native Americans, but most Indians think they are people and not whales or bugs, and you can quite sympathize with that view.

I would say that the important thing about conservation of the library, part of the research potential for the collection, is that it

be in one place, if possible, and, if possible, fairly closely associated with the main collection so that it not be so spread around that the research potential is dissipated.

Senator EVANS. Would you suggest at all that we treat this as a unity, as a very large collection but a separate collection in terms of its curatorial space and location or if at some point we find an appropriate partnership, if you will, or an arrangement between the proposed museum on the mall and the Smithsonian and the Heye collection that there be some joint curatorial space or effort or centralized?

Mr. CONABLE. Senator, I would prefer to see it in one place for ease of administration, but I would leave that to the judgment of the wise men and women who are ultimately going to decide this issue. I would trust that all parties would be consulted and an effort made to reconcile differing views to the extent possible, but that the lodestone of this committee be the preservation of the collection and its accessibility as an important part of the heritage of Native Americans.

Senator EVANS. Thank you.

Mr. CONABLE. Mr. Chairman, thank you very much for letting me appear here, and let me say that the Board of Trustees, as far as I know, is very willing to exercise that degree of control that appears to be in the interests of the collection. In other words, they are not locked into a particular status as Board of Trustees.

The bill would have an advisory group if it were to be a Smithsonian location. Presumably, if it were to be a New York location, it would continue as a private institution subject to the control and direction and to the judgment of a Board of Trustees similar to the one that is there.

Whatever you do, though, please preserve the option of Native American participation in the process.

The CHAIRMAN. Your testimony has been extremely helpful, and I agree with Senator Moynihan. You are the first expert we have had in a long while.

Mr. CONABLE. Thank you.

The CHAIRMAN. I thank you very much, sir.

Our next witness is the Assistant for Special Projects of the Manhattan Borough, Ms. Gail Johnson.

Welcome, Ms. Johnson.

STATEMENT OF GAIL JOHNSON, ASSISTANT FOR SPECIAL PROJECTS FOR THE MANHATTAN BOROUGH PRESIDENT, NEW YORK

Ms. JOHNSON. Thank you, Mr. Chairman.

Actually, I am the Assistant for Special Projects for the Manhattan Borough President, David N. Dinkins, who wished very much to be here today but, unfortunately, could not be. However, he writes:

Senator Inouye, colleagues, and friends, I thank you for allowing me the opportunity to testify about a national treasure that resides in Manhattan, the Museum of the American Indian. It is not necessary for me to elaborate on the quality and reputation of the collec-

tion, as I know that we are here today specifically because we recognize that fact.

During my time in office, I have been listening, talking, and meeting with representatives of the Museum of the American Indian and with uptown and downtown community leaders in Manhattan. In addition, I have received a large volume of mail on this issue from my constituents and have had a working relationship with the staff of the mayor and of other officials.

I initiated a dialog with local New York City leaders, including the Manhattan Members of Congress. As a result of this outreach, we now all share a unified point of view with respect to the museum's future, that the U.S. Custom House become the primary location for the collection created by the Heye trust.

Since there is a certain amount of urgency in the need for the collection to be properly preserved and exhibited, it seems to me unwise to engage the State of New York and the Museum of the American Indian in what would surely be a protracted legal battle over MAI's option to move.

The proposal that was presented to you by Senators Moynihan and D'Amato, Representatives Rangel and Weiss, Governor Cuomo and Mayor Koch is perhaps the best of all possible worlds—good for the Museum of the American Indian and good for those who would use it. It would establish on The Mall a national memorial and museum dedicated to the American Indian that will include materials provided through a loan arrangement with the Heye foundation. It would also make the old U.S. Custom House, a central, significant site in Manhattan, available to house the collection now based in northern Manhattan.

This will allow researchers and scholars access in one city to the most valuable combination of significant collections, those of the Museum of the American Indian and the American Museum of Natural History. Most importantly, it would put the MAI in an excellent position to increase dramatically their audience, and not coincidentally, their fund raising potential.

I believe that the museum's proposed location at Bowling Green in downtown Manhattan will become the keystone in a lower Manhattan cultural structure, linking South Street Seaport, the embarkation point for the Statue of Liberty, the restored Battery Maritime Building, the proposed Biosphere, and the Holocaust Museum at Battery Park City. The mutual benefit and economic spin-off that this concentration of cultural activity will generate will be substantial.

New York City's commitment of capital funds and annual program support are welcome and will be essential to the museum's financial stability.

I would also hope that a continued presence of this museum at its Audubon Terrace site can be incorporated as a component of the new plan.

Senator Inouye, I admire your efforts to provide a solution to this seemingly insoluble problem. The prestige and accessibility that association with the Smithsonian would bring to the MAI would indeed be an honor to the museum.

At the same time, the proposal now before you from the distinguished group of New York representatives will go far to answer

the concerns of those of us who cannot in all conscience allow the future of the MAI to be separated from the future of New York. I urge you to consider this proposal positively and I look forward to remaining involved in future negotiations concerning this issue.

We are grateful for your leadership. Thank you.

[Prepared statement of Mr. Dinkins appears in the appendix.]

The CHAIRMAN. Thank you very much, Ms. Johnson. Will you convey to your borough president the gratitude of this committee?

Ms. JOHNSON. Certainly.

The CHAIRMAN. Thank you.

Senator MOYNIHAN. And you would particularly convey our thanks on behalf of the Rules Committee?

Ms. JOHNSON. Certainly.

Senator MOYNIHAN. Mr. Chairman, you should know that David Dinkins has been incomparably supportive throughout this matter as he has tried to make peace among the warring tribes, if I may put it that way, and has thought of his responsibilities as borough president. He presides over a small island off the northeast shores of the continental United States which has a population larger than, I think, some 20 States. It is not very big, but it is very dense, and it is very important.

He has been just remarkable in his commitment to this enterprise, as has Ms. Johnson, and we thank you so much for coming down here. Do convey our joint and special greetings to the president.

Ms. JOHNSON. Thank you.

The CHAIRMAN. Thank you very much.

We will take a short, 2-minute recess.

[Recess taken.]

The CHAIRMAN. The meeting will please come to order.

Now, the committee will hear from the truly important witnesses, leaders and representatives of the Native American Indians.

May I now call upon the Honorable Levi George, member of the tribal council of the Yakima Indian Nation, and accompanied by the Honorable Lonnie Selam of the Yakima Indian Nation of Washington; the Honorable John Gonzales, Secretary-Treasurer of the All Indian Pueblo Council of Albuquerque, New Mexico and the new President of the National Congress of American Indians; the Honorable Roger Buffalo Head of the University of Minnesota from St. Louis Park, Minnesota; the Honorable Lionel John, Executive Director of the United South and Eastern Tribes and member and past president and treasurer of the Seneca Nation of New York; the Honorable Oren Lyon, Chief of the Onondaga Nation, representing the Six Nations of the Iroquois Confederacy of New York; and the Honorable Robert E. Lewis, Governor of the Zuni Pueblo of New Mexico.

STATEMENT OF HON. LEVI GEORGE, TRIBAL COUNCIL MEMBER ACCOMPANIED BY LONNIE SELAM, CULTURAL AFFAIRS SPECIALIST, YAKIMA INDIAN NATION, TOPPENISH, WA

Mr. GEORGE. Thank you, Mr. Chairman.

Mr. Chairman, I have a prepared statement that I wanted to read, but before I do, I feel I must comment on what I have just heard from the New York panel.

I am very saddened by what they said. This is not an issue of New York versus Washington, DC I am disturbed that it is being portrayed that way.

Let us not lose sight of the issue here. What we are talking about is the cultural artifacts of the Indian people. Without the Indian people, there would be no such collection. We feel that we have a right to insist that it be shared with us and all Americans and visitors to this country.

Clearly, that is not happening with the collection in New York. Now, under the Inouye bill, it would happen.

Let's stop these disputes and do what is best for the country and for the Indian people. You are dealing with the important parts of the Indian people's culture here.

The CHAIRMAN. I thank you very much. May I assure you before we proceed that as you are aware, this measure, S. 1722, was drafted after consultation with the leaders of the Indian Nations. Secondly, we will never intentionally or otherwise pass legislation that will in any way demean or injure the Indian people. That is the pleasure of the committee.

Please proceed.

Mr. GEORGE. Thank you.

Mr. Chairman and Vice Chairman and committee members, my name is Levi George. I am a member of the Yakima Tribal Council and a religious leader of the Yakima Indian Nation.

I am accompanied by Lonnie Selam, also a Washat religious leader on our reservation. Lonnie Selam also serves as the Cultural Resource Specialist for our tribe.

In our capacities as religious leaders, we are called upon to carry out many services, prayers, and burials of our people in the traditional manner. We therefore have a strong interest in this legislation.

As you know from your trips to the Northwest and to the Yakima Indian Nation, our reservation is located on over 1.3 million acres of land in south central Washington State. Our original lands, most of which were ceded in the Treaty of 1855 at Walla Walla, included over 10 million acres comprising most of central Washington.

The 14 tribes and bands of Indians that now comprise the Yakima Nation have a rich culture and history that must be not only protected but enhanced. For these and other reasons, we want to extend our sincere appreciation to you, Senator Inouye, for taking the lead in introducing this most progressive legislation and to Senators Evans, Adams, and the many other distinguished Senators who have co-sponsored it.

To say that legislation creating a museum honoring the American Indians is overdue is a profound understatement. This was our country, and it is inconceivable that there is no appropriate tribute to that fact.

We agree with Senator Inouye that it is imperative that the United States create such an institution, and it would be appropriate to pass this legislation in the year of the 200th anniversary of

the signing of the Constitution, a document modeled upon the governmental practices of the Iroquois Confederacy.

The creation of such a museum is an idea whose time has come. This museum will acknowledge and recognize the role that the Indian people have played in the development of the United States and will appropriately honor our contributions to this great country.

At the same time, the memorial proposed in section II should serve as a somber reminder to a chapter in this country's history that must not be forgotten and of the treatment of aboriginal people by a more dominant society. Perhaps it will serve as a lesson that will help the aboriginal people in other third and fourth world developing countries before the same mistakes and actions are taken against them as were perpetuated against my people.

We strongly support title I of S. 1722 creating the national Museum of the American Indian within the Smithsonian Institution. Not only would the country benefit by viewing the artifacts and the history, art, and culture of the Indian, but the public would gain great knowledge in learning of the many things we have given this country.

It is therefore important to both the Indian people and non-Indian public to have such a contemporary learning facility established, particularly in that the existing exhibits are wholly inadequate. We are excited about the concept of this facility being a living memorial providing for traveling exhibitions, a stage for the performing arts, and the study of Indian languages, literature, history, art, and life.

We think that in examining and in displaying Indian history, the bill should be amended to direct that a specific part of the museum be established to explain to the public what Indian treaties are, why they were signed, and what rights the tribes reserved to themselves in these treaties. When the bill talks about creating a living memorial, we think of our treaty in that it is a living document, every bit as applicable to our rights today as it was 132 years ago when our forefathers signed it. If the proposed museum could help to educate the public about this issue, it will serve an important and useful function.

Additionally, the Indian people would benefit by such a museum. We are striving to instill in our people a knowledge of the history and culture of the Yakima Indians. We still have sources of teaching our culture and history, most notably from our elders from which our young people can learn of our traditions, but in some instances, important items have been taken and artifacts removed from our land.

The proper display and cataloging of such objects, combined with access to volumes of written material on our culture and history would be beneficial to our people as would access to similar knowledge and their artifacts benefit other tribes.

It is in this regard that we would like to propose an amendment to the bill. Section 102(7) finds that the creation of such a museum would "give all Americans the opportunity to learn of the cultural legacy and historic grandeur of the American Indian people" and

provide "curation and other learning opportunities for American Indian people."

These points are true but only if the Indian or non-Indian public in question has the financial resources to travel to Washington, DC. As the committee is aware, our tribal members and much of the population at large are generally not able to afford travel to Washington, DC. A a result, most will never see the museum.

The Yakima Indian Nation is the proud operator and operator of our own on-reservation museum, and we see this bill as affording an opportunity to have our museum establish an official relationship with the Smithsonian that would be to both entities' mutual benefit. We propose that the bill be amended to establish a certification process whereby the Smithsonian Institution would examine and, through established criteria, certify applying tribal museums such as ours to become affiliated in a satellite-like capacity with the Smithsonian.

This could also authorize certified tribal museums to secure available funding from the Smithsonian and would allow for and encourage the loaning of exhibits between certified museums and the Smithsonian. This would greatly enhance our people's access to exhibits and would make the history and knowledge identified in section 102 truly available to a large number of Indian and non-Indian people.

We feel that a certification process would assure the Smithsonian that they are dealing with reputable and well-run Indian museums. It would also be of great benefit and honor to a museum such as ours to be certified by the Smithsonian.

We are aware of and saddened by the position of certain people representing the city of New York in regard to the Heye Foundation's vast collection at the Museum of the American Indian in New York. The creation of the proposed Indian museum in Washington, DC is not solely for the purpose of bringing the artifacts in New York to Washington, DC but is rather a multi-faceted approach as described in S. 1722.

However, the New York collection is, by many fold, the largest collection of Indian art and artifacts in the world. The creation of a museum in Washington without access to the educational aspects of the Heye collection would be a great shame.

This collection should be seen by millions of people, including Indians who travel to Washington, DC frequently and should be properly displayed as it is a Federal treasure. This can only happen if the collection is transferred to the jurisdiction of the Smithsonian Institution under a proposal such as that contained in this legislation.

Two aspects of the arguments of those people representing New York surprise us. The first is the rather recent and sudden interest in the Heye collection.

The vast majority of this priceless and unequaled collection has sat in warehouses in New York, some in corrugated boxes, other pieces covered with plastic, and much simply on shelves unseen, uncatalogued, and unprotected. If these people who oppose S. 1722 are so enamored of this collection, why has the city not come to the aid of the museum before now? Why only after there was a propos-

al to transfer some of the pieces out of New York City was there a sudden interest in the collection?

The second thing that bothers us is the appearance of unrivaled greed by certain New Yorkers. The Heye collection contains over 1 million pieces. It is a collection so vast that it could never be fully displayed in even the largest new museum. There are more than enough pieces to have a large and impressive collection in New York, the full museum as proposed in Washington, DC, and enough to share with a large number of other museums.

If the Heye collection consisted of a few hundred pieces of one-of-a-king artifacts that were properly displayed and accessible to the public, it is possible to appreciate New York's desire to hold onto it. But the complete opposite is true.

Where most museums would be proud to have one or two ceremonial buffalo robes, the Heye collection owns hundreds. Where most museums would be thrilled to exhibit one or two authentic peace pipes, the New York museum owns 400. They have over 100 Pomo Indian baskets and a collection of pottery so large it has not been fully cataloged.

Clearly, the most appropriate jurisdiction to oversee such a national treasure and under which such a collection can be properly displayed and cared for is the Smithsonian.

The bill contains a specific provision in section 103(c)(4) authorizing the construction or acquisition of a permanent exhibition facility in the city of New York at which a large part of this collection would be housed. Access to the resources of the Smithsonian would clearly improve the display and care of those artifacts remaining in New York City. This is much more than New York is doing now and would be paid for by the Federal Government. Yet, for some reason, they are not satisfied.

For the good of the Indian people and the public at large, we hope that New York will reconsider its ethnocentric and unreasonable position.

I will ask Mr. Selam to address title II of the bill.

The CHAIRMAN. Mr. Selam.

Mr. SELAM. Thank you, Mr. Chairman.

Mr. Chairman and committee members, we are also very appreciative of the intent and sensitivity demonstrated by section II of the bill. That there exists in the attic of the Smithsonian the skeletal remains of 19,000 Indians is a national disgrace. No other group of people but Indians could be treated in such a manner.

We only ask you to imagine the rightful furor that would befall this city if the Smithsonian announced that it had the remains of 19,000 Jews in boxes in its attic. There would be legislation enacted returning those remains to their descendants or to Israel with such speed that it would make passage of the last continuing resolution look slow.

We are disappointed in the archaeological experts who insist these skeletons must remain where they are for study purposes. We think you have studied our ancestors' bones more than enough. It is surprising that more pictures of Indians involved in traditional practices don't show them with calipers permanently attached to their foreheads.

We strongly agree that every effort should be made to identify by tribe and location the skeletal remains in the Smithsonian. Our people believe that it is best for the earth spirit for a skeleton that has been dug up to be reburied in as close a spot as is possible to the original burial place. The prayers that were said over the body stay with it in that part of the earth and cannot simply be transferred from one part of the country to another.

We are concerned that the legislation does not afford the Indian people a role in the effort to identify these remains or any sort of a timeline for returning them to their descendants or tribes. The legislation says they should be identified in 5 years, but when will the identified bones actually be returned by the Smithsonian?

Some sort of procedure should be established to ensure Indian involvement in the process of identifying the remains. In the process involved in identifying remains, Indian people may be helpful to the Smithsonian, particularly if the remains have artifacts that were taken with them.

It is going to be a very difficult and delicate task to determine how to deal with the skeletal remains that cannot be identified. There is no more sensitive area for the Yakimas than is the proper burial of our people.

We have real concerns about a mass grave that seems to be envisioned in this bill, because many of our people do not believe in mixing the spirits in one grave. We believe they may fight each other, and we do not bury bodies together.

Many of our people also do not believe in placing cement over the tops of graves, as this may result in the life spirit and the earth spirit not being able to become one with then time comes. Some of our people will place markers off to one side of a grave instead of directly over the top of it so as not to interfere with this event.

We understand that a number of ideas are under consideration for dealing with this sensitive subject, and we can only offer you our counsel and advice as to how the Yakima people would recommend that you proceed. We cannot speak for any other tribes on this matter, as religious practices may differ from one reservation to the next.

However, it is our strong feeling that Indian people must be buried in the earth and not in concrete or surrounded by any commercial trappings. In reality, this can only be accomplished by having the skeletal remains individually buried in a cemetery. We would therefore propose that these remains be buried outside of the museum and that an appropriate memorial to the Indians still be the centerpiece of the museum.

In regard to S. 1723, we do support Senator Bingaman's concept of regional museums affiliated with the proposed Washington, DC museum, but we feel it should be done in a manner that would compliment the suggested amendment in our testimony relative to tribal museums. It would seem appropriate to merge S. 1723 with S. 1722 and our proposal to include certified Indian museums.

We do extend our hand to you in dealing with this subject, and we extend our hearts to you in appreciation for all that you have done. We hope that you will stay on as chairman of this committee in the next Congress even if you do become Majority Leader. No

chairman has ever shown more compassion for the Indian people than we have seen from you over the past year.

As for you, Senator Evans, I can tell you that there was no more disappointed place in the State than the Yakima Reservation the day of your announcement not to seek reelection. Over the past three decades, we have never had a better friend or more understanding advocate. Now that you will have more time on your hands, we hope that you will come to our reservation and at least take a crack at catching those salmon that you have worked so hard and successfully to restore.

Thank you.

[Prepared statement of the Yakima Nation appears in the appendix.]

Senator EVANS. Thank you.

The CHAIRMAN. I thank you both very much.

May I now call upon the President of the National Congress of American Indians, Mr. John Gonzales.

STATEMENT OF HON. JOHN GONZALES, PRESIDENT, NATIONAL CONGRESS OF AMERICAN INDIANS

Mr. GONZALES. Thank you, Senator.

Mr. Chairman and Mr. Vice Chairman, I express my extreme pleasure in your allowing us to address this committee on this important legislation. However, before I start, I must express my disappointment in the absence of the New York delegation. I was hoping that perhaps rather than just addressing the committee members, perhaps we would at least have the opportunity to share our concerns and have them have our concerns fall on their ears directly rather than through staff people or rather than having them have to read statements. Perhaps that expression of disappointment can be relayed to them.

I wasn't sure whether I was supposed to take Mayor Koch seriously or not. He was a very humorous individual as a speaker, and some of the statements that he made I wasn't sure whether he was serious or not, so I decided not to take him seriously.

I would like to summarize some of the points that have been submitted, I believe, or if they haven't, I would like to have the statement submitted for the record.

The CHAIRMAN. Without objection, so ordered.

Mr. GONZALES. Thank you.

The main point is that this legislation represents a long overdue recognition of American Indian nations, both past and present, and provides an opportunity to bring Federal collection and exhibition policies into the modern era. This can only be achieved by a predominance of Indian and Native people in the governance of the national museum and a full presentation of Indian and Native world views in the scope, display, and placement of the collections. Key to this is the overriding issue of repatriation of Indian and Native sacred objects and the national treasures of our peoples and the return and reburial of Indian and Native human remains.

We urge the committees to continue to assert the linkage in S. 1722 between placement of the collection of the Museum of the American Indian under the aegis of the Smithsonian Institution

and the return to tribes and reinterment of Indian and Native human remains. The Smithsonian should not be entrusted with a collection of this unequalled scope and importance without sufficient safeguards to ensure an end to its current discriminatory and disrespectful practices.

S. 1722 is considered by many non-Indian people as a bill to resolve the need for the Museum of the American Indian to find a home for its collection and to satisfy the desire of the Smithsonian Institution to acquire that collection. The New York politicians appear to view the bill as a contest between New York and Washington, DC, and few have considered what the collection represents to Indian people and what the outcome of this matter will mean to us.

I would like to commend at this point in time your sincere expression of your desire to consult with Indian people and Indian tribal leaders throughout the United States on any matter relating to Indian tribes or that affects Indian tribes in any manner. I would like to also commend Senator McCain for his statement basically echoing that sincerity in regard to consultation with tribes as he did earlier today.

We view the collections of the museum in New York and the Smithsonian as being held in trust for the Indian and Native peoples. We welcome the prospect of the merger of the great number of items in the two collections which were acquired legitimately and the opportunity to have these items rotated in satellite museums throughout Indian country and in such great American cities as New York City.

There are items on both collections which were not acquired legitimately which represent the cultural and historical heritage of living Indian and Native peoples and which must become the subject of dialog regarding their return and care and treatment. I believe Oren Lyon will address some concerns that he has in regard to his tribe and some of the items that are presently in the collection in the Heye Foundation collection.

These sacred and historical items are the national treasures of the Indian and Native nations today and must be recognized as such. We urge the committees to require the initiation of dialog without precluding our due process rights and to require that each Indian and Native nation be provided with a complete inventory of all items relative to their traditions and history.

We urge the committees to ensure that the Museum of the American Indian trustees have a genuine governance role, for this will assure that at least some Indian people will have a say in the new museum's policies. We urge the committees to require half of the post-transfer new board for the national museum to be Indian and Native people. We also urge the committees to adopt the recommendation made by Senator Stevens last week that the Indian preference laws be applied to the Museum of the American Indian.

At present, the Smithsonian Institution holds at least 19,000 remains of Indian and Native people of North America. We urge the committees to require that the Smithsonian return all Indian and Native human remains to those Indian and Native nations requesting repatriation and to rebury all others in its collection.

The Smithsonian claims that it needs a collection of human remains to study important matters that benefit living people, including us. We urge the committees to require the Smithsonian to quickly conclude its tribal identifications and to report them to tribes for their decisions regarding the disposition of their ancestors.

The Smithsonian statement before these committees last week indicated continued reluctance to return human remains to their tribes. We ask the committees to require the Smithsonian to provide a detailed listing of the Indian and Native items and human remains it has transferred to institutions and universities and other entities along with a narrative regarding the terms of the transfer and the basis for each transaction.

S. 1722 would have reinterment, unless otherwise requested for repatriation, occur on the mall. We believe that most Indian and Native peoples may object to this, as was indicated by the tribal delegation from the Yakima Nation.

I must say that as far as the Pueblo country, the Pueblo people in New Mexico, we have discussed this, and we have not taken a formal position as far as the reinterment issue is concerned, but we do have a concern over the fact that there are some very powerful competing interests that may exist, and we have concern over the fact that some of these powers may be used either in a wrongful manner or perhaps against the Indian people as far as the Pueblo people are concerned.

So, we hope this issue will be a source of discussion among yourselves and your staff and the tribal leaders. If there is a solution that perhaps can be arrived at, we hope that, of course, and we hold you to the commitment that you made regarding your consultation process. We believe that a resolution will be made on this issue.

We urge the committees to set aside some land off the mall for the reinterment and to maintain the memorial and living monument as a centerpiece of the national museum. Just as the Viet Nam Memorial is a powerful statement without being a burial ground, the American Indian monument can be a powerful tribute without being a mass grave.

On S. 1723, we applaud the efforts of Senator Bingaman to ensure that satellite museums are located in Indian country. We support this concept and look forward to detailed discussions regarding locations of satellite museums.

One thing that I have indicated to Senator Bingaman is that as far as the locations are concerned, we believe that in the southwest location, the premiere State in that part of the country being New Mexico, that it would be an ideal location for one of the regional museums.

We do have what is called the Indian Pueblo Culture Center which you visited several months ago which we believe can be converted into a facility that will be, of course, one that will provide for the artifacts that are being discussed in his legislation to be returned to that area. Although there are offices located throughout the facility, we have discussed the possibility of converting the whole facility into one entire museum and that, we believe, will serve the purpose of that legislation.

We believe that the locations that, I believe, have probably been proposed to him by some of the museums in Santa Fe, we believe, would not provide the adequate protection that we seek. We believe that some of the problems that have been brought to the attention of yourself and others in regard to the display of human remains in the Smithsonian Institution will, I think, in my mind as far as the museums in Santa Fe or other non-Indian museums perhaps will just occur all over again.

So, rather than having to deal with that problem, we feel that adequate controls can be placed into an Indian controlled museum such as the Indian Pueblo Culture Center in Albuquerque, NM which, of course, is owned by all the 19 Pueblos.

With that, I would like to thank you for providing me the time to address the committee on this very important legislation. I do commend you very highly for the leadership that you have demonstrated on this issue.

At this point in time, I would like to first of all indicate that we do have two staff members here from the National Congress of American Indians, our executive director, Suzan Harjo, and Mr. Bob Holden for any questions you might have later on. We also have Mr. Roger Buffalohead who is part of the NCAI Cultural Concerns Commission who will provide some remarks now.

Thank you.

[Prepared statement of Mr. Gonzales appears in the appendix.]

The CHAIRMAN. I thank you very much, President Gonzales.

Our next witness is Mr. Buffalohead.

It is good to have you with us.

STATEMENT OF ROGER BUFFALOHEAD, UNIVERSITY OF MINNESOTA, ST. LOUIS PARK, MN

Mr. BUFFALOHEAD. Thank you, Senator.

My testimony is submitted in written form as a part of the National Congress of American Indians testimony, and I will be adding some additional comments at this time.

I am a member of the Ponca Tribe of American Indians. Coming from a small tribe puts me in a objective position with regard to what is going on with the Museum of the American Indian and the Smithsonian. Insofar as I know, the Smithsonian has no Ponca skeletal remains and the Ponca collection at the Museum of the American Indian probably constitutes less than 20 items in the entire collection.

I am an American Indian scholar, and I am a member of the Cultural Concerns Commission of the National Congress of the American Indian. In my view, S. 1722 and S. 1723 address problems of great national significance. The legislation also provides solutions to complex historical and contemporary issues surrounding American Indian history and culture which are in the best interests of American Indians, the museum and academic community, and the general public.

When completed, the Museum of the American Indian-Heye Foundation, along with the memorial to American Indians within the Smithsonian, will be a remarkable national achievement and a remarkable national resource. No other collection will be as sub-

stantial, wide-spread in its impact, and far reaching in its benefits as the proposed museum in your legislation.

This legislation also, it seems to me, addresses the cultural well-being of the first Americans and, in so doing, addresses the cultural well-being of this Nation, as well. It is important to highlight some of the reasons why S. 1722 and S. 1723 should be enacted into law.

As a result of this legislation, the United States will finally take its place among the enlightened nations of the world with cultural policies which transcend racism and ethnocentricism. Not only do the cultural policies embodied in this legislation recognize and appreciate Indian history and culture, they also provide for the enhancement and development of contemporary tribal cultures.

No longer will Indian people be out of sight and out of mind in the cultural and educational world, but rather at the center of museum, cultural, and scholarly activities on both the national and local levels.

The second reason why this is excellent legislation is that the combined American Indian cultural resources of the Museum of the American Indian-Heye Foundation and the Smithsonian Institution constitute a national and a tribal resource without equal in the world.

The opportunities for scholarly study and research, better museum educational programs, innovative exhibits, and the development at the museum of policies which are more reflective of Indian values and beliefs and practices and traditions are unlimited. Nearly everyone will benefit from the museum memorial, even New York City which has not shown in the past a strong commitment to elevate this priceless collection to a first class museum within the city of New York.

Indeed, the State of New York's interest in the Heye trust reminds me of the Federal Government's interest in the trust relationship with the American Indian. When it is in the benefit of the Federal Government, they pull out all their heavy guns to emphasize their trust responsibility for American Indians. When it is not in their benefit, they forget about Indian people.

The third reason why this is excellent legislation is that the symbolic meaning of S. 1722 and S. 1723 to American Indians and to all American people should not be overlooked. This legislation represents a national commitment to Indians to rectify old wrongs and establish a visibility for American Indian people in the nation's capitol which recognizes Indian contributions to American society and culture.

I might add Indian people definitely need a national ally in the local and regional areas where we live in spreading truth and understanding about Indian people to overcome negative and debilitating stereotypes which often pass for knowledge about American Indian.

The role the museum can play in educating the public about American Indians is incalculable. When one considers that many of the problems faced by contemporary Indian people stem from poor self-image shaped by stereotypes and racism at the local level, the educational significance of the Museum of the American Indian looms large in the future of Indian people.

Finally, S. 1722 and S. 1723 should be enacted into law because it is the right thing to do. For American Indians, there cannot be political and economic equality without cultural equality as well. Cultural equality is fundamental in recognizing Indian contributions to American society and in providing the climate and environment for Indian nations to continue to develop their own political, economic, and cultural destinies within the United States.

S. 1722 has some weaknesses which need to be addressed by the bill's sponsors and the Congress. These weaknesses fall into three areas.

It seems to me that the legislation, in order to protect the George Gustav Heye trust established in 1916, commits the Museum of the American Indian to a philosophical purpose and orientation which is seriously outdated. While it is essential to safeguard the Heye trust, it is also essential to recognize changes in the intellectual thought and scholarship since 1916.

Anthropology is no longer a new and developing discipline as it was in 1916, and it is no longer in need of full support for its development as a professional field. Moreover, a body of ethno-historical literature has come into existence providing new and exciting ways to view and present American Indian historical and cultural experience.

In addition, the field of American Indian study has also established a foothold in academia, providing Indian perspectives and insights into the history and culture of Native Americans.

In short, the philosophical purpose and orientation of the museum needs to be updated and expanded to include tribal world views and perspectives and to make certain that the museum becomes more than an anthropology museum. I recommend language in the legislation which recognizes the importance of tribal world views and perspectives in carrying out the purposes and philosophy of the Museum of the American Indian.

Another weakness of the legislation centers around the memorial to American Indians and the proposal to inter American Indian skeletal remains in storage at the Smithsonian on the mall in Washington, DC. While I favor the memorial, I question the wisdom and appropriateness of burying Indian skeletal remains at or near the memorial or museum site.

My understanding of American Indian burial practices and religious beliefs suggests that mass burials were rare and usually associated with major calamities or catastrophes such as the death of whole villages from smallpox or massacres in the past.

I also believe that most tribes have very unique beliefs about respecting the dead and places of rest and that this museum will need to counsel with tribal groups and with probably the National Congress of American Indians and other associations to develop a better and more sensible approach to what to do with the skeletal remains in the Smithsonian.

My recommendation is to erect a memorial to American Indians and, in consultation with American Indian tribes and the NCAI, to have the Congress explore the possibility of locating or setting aside a tract of Federal land as an appropriate place for the museum to oversee as a burial ground for both these remains and other remains that may occur when tribal trust land or other Fed-

eral land, in the name of compelling public interest, must be used for purposes that require the removal of skeletal remains.

A final concern with S. 1722 focuses on the museum governance. The Museum of the American Indian-Heye Foundation in New York has established a very good working relationship with the American Indian community. The Smithsonian Institution, on the other hand, does not have that kind of relationship.

In fact, American Indians on the board of the museum have played a key role in shaping this legislation. My concern is that the Smithsonian, as a very large institution, without proper monitoring and without proper safeguards, may very well subsume the Museum of the American Indian and, once again, place Indians in the position of having little or no influence on the major museum policies in this country.

I thank you for the opportunity to add my additional comments to the testimony. Once again, I would like to express my concern that Senator Inouye also consider continuing his position on the Senate Select Committee on Indian Affairs because of their outstanding work that has taken place during the last year. We are looking forward to your carrying through on this particular issue with honesty and forthrightness and with great respect for the American Indian people in this country.

Thank you.

[Prepared statement of Mr. Buffalohead appears in the appendix.]

The CHAIRMAN. I thank you very much, Mr. Buffalohead.

I should point out to you that when we drafted title II, we did so with deep concern and trepidation, because we frankly did not know how we should resolve the question of the skeletal remains.

You have several problems. One is identification. Apparently, if efforts were made, it would take several years to identify the remains if that is possible at all. Very few are identified and cataloged. If they are cataloged and identified, then they can be easily returned to their tribal lands, and I gather that the Smithsonian has made arrangements during the past years to return some of the remains.

Still, we find, as you pointed out, over 18,500 skeletal remains in this area. So, I invite all of you to communicate with the committee and sit down with the staff and share your wisdom as to how these remains can be accorded the proper honor and dignity. So, I welcome your suggestions.

Our next witness is Mr. Lionel John, the Executive Director of the United South and Eastern Tribes.

It is good to see you again, sir.

STATEMENT OF LIONEL JOHN, EXECUTIVE DIRECTOR, UNITED SOUTH AND EASTERN TRIBES

Mr. JOHN. Good afternoon, Mr. Chairman. It is nice to see you, too.

Mr. Chairman, Mr. Vice Chairman, and members of the committee, I am pleased to have this opportunity to come here today and provide some comments on S. 1722 and S. 1723.

I was also pleased this afternoon to hear Mr. McCain's concern regarding Indian consultation in respect to the issue. Having been born and raised in New York State and having been a tribal leader there for the Seneca Nation, I have dealt with New York officials extensively.

It didn't surprise me that they all left before the Indian people had a chance to tell them our side of the story. Perhaps they had to get the State place home by a certain hour. I don't know, but in New York they have a saying. They say everybody has to sit at the table. From our side, we have had trouble finding the table often, but that is how things are sometimes.

I want to begin today by first stating that the United South and Eastern Tribes strongly endorse this legislation to establish a National Museum of the American Indian. We have reviewed the proposed bills, and I want to make some comments on specific parts of the bills and offer some suggestions with respect to that.

First, under section 102(7)(a), I believe further definition should be given to the term "cultural legacy." The definition should represent a true and complete meaning to bring out the significance of the material on display to enrich the American public's understanding on Indian history. It should not be just a display of objects.

Under section 1102(7)(b), we are pleased with the proposed creation of the museum facilities. However, I would strongly suggest that the facility should contain an area suitable for tribal religious or other ceremonial functions and designed with Indian consultation.

We also are very supportive of creating a memorial for interring and memorializing skeletal remains after the proper identification cannot be determined.

However, the bill is silent on an important issue of grave concern to Indian people which is the handling and disposition of sacred and religious items.

Our first concern is that, after proper identification, these items should be returned to the Indians. If agreement cannot be reached on returning sacred and religious items, then at a minimum, provisions should allow for religious and spiritual leaders to have access to the items to conduct necessary ceremonial activities.

It has been reported in the past from my tribe, the Seneca Tribe, that we have had spiritual people travel to New York to conduct ceremonies. This hasn't been acceptable to the people, but that is all they have had, and they have had to live with that.

We have been very concerned about an issue which is touched on partly under section 102(4), the Library of History, and under section 103(a)(1), the advancement of study, in that Indian history has been improperly taught in our school systems. There is definitely a need to extract correct and up-dated information to be included in the Federal, State, and Indian education systems.

Textbooks have long presented stereotyped and misleading images about the American Indian. While we talk about advancing and enriching the American people on this matter, the first place I could start is with our schools.

Further, I think that the collection of all this information that is contained in the Heye Foundation museum should be used for this very purpose.

Referring to section 105(a)(2), the term "shall have sole authority to" could present a problem. This seems to leave the Indian without recourse if an event were to occur where the board of trustees decides to sell an item which an Indian tribe may in fact have been attempting to recover. I think the bill should include language to help Indians in the event this situation should occur.

In describing the functions of the board of trustees, the bill has included the term "loan." I believe the policies of the museum should be extended to loan certain displays to tribal museums, as today there are many small museums in operation on the Indian reservations.

The loan policies should certainly be placed under proper procedures to include such items as handling, security, and time frames.

I have additional comments regarding S. 1723 under section 2(4). Again, I want to state that when artifacts have sacred and religious purposes, they should be returned to the Indians.

We strongly support the notion under section 2(6) because we believe there is a need for national interpretive and educational programs.

One other thought in relation to future collections is that there may be a possibility where the Indian tribes themselves may want to develop display materials to provide to this new museum. There we should make provision so this can be accomplished.

My final comment concerns the fact that both bills are silent on the issue of acquiring artifacts and other items through desecration of Indian burial sites. There needs to be strong Federal laws to prevent disturbance of Indian burial sites with punitive provisions for those people who engage in such acts.

I thank you for this opportunity to be here today to offer these comments. As always, it is a pleasure working with you.

[Prepared statement of the United South and Eastern Tribes appears in the appendix.]

The CHAIRMAN. I thank you very much.

I just couldn't help but think to myself that when Indian burial grounds are desecrated, it is anthropology, but if burial grounds of non-Indians are desecrated, it is called grave robbery.

Our next witness is the Chief of the Onondaga Nation, the Honorable Oren Lyons.

Chief, it is good to have you, sir.

STATEMENT OF HON. OREN LYONS, CHIEF, ONONDAGA NATION

Mr. LYONS. Thank you, Mr. Chairman and Mr. Vice Chairman.

You might allow me some observations. I think I have a cold and I am in the process of dying here waiting to give our testimony. It seems to me that in the interests of hearing what the native peoples' testimonies are that they should be put forward first on the agenda if such a forum is to form again so that many of the people who were here earlier could hear directly the testimony of the Indian nations and Indian people. I think serious consideration should be given to the make-up of testimony in the future, and I

suggest that consultation with us as to the amount of time and what we have to say would be important in developing that.

I also want to take this opportunity to tell you our appreciation of your stalwart stand for principle and law in the long Iran-Contra hearings. We are very interested in that. We have friends involved as people battling on both sides of the Nicaraguan border with long discussions with the Mosquito Nations and the Ramas and the Sumas and the people from Bluefields. So, we were following very carefully the process, and I just must extend my appreciation to you for your steadfast stand for principle and law.

Now, some of the things that have been said this afternoon as it relates to terminology and as when we get to talking about museums, we use the term artifacts, and artifacts denotes a society or a time passed. It has been my observation and been our position that many of the objects that are in collections throughout museums and historical societies and private collections in this country and outside of this country are not artifacts but are indeed objects that would be used today in contemporary societies of Native American people.

We should be clear when we make these definitions that obviously if these definitions are going to be made, then we should have some input as to what these definitions are going to be.

Following that line of thought and in our prepared statement which I am going to submit shortly would be that the easiest way to do this would be to have Indian people in the majority. We are suggesting 11 of the 21 trustees to be Native American people as trustees. We think that with that process, these sensitive issues will be better guarded and better presented.

In the development of such a new idea, these new museums, that idea should seriously be approached. Certainly within this broad and vast country with all of the talents of the many people who comprise the Native peoples of this country, we can find 11 people who can serve that purpose in Indian country.

The other interesting question that came to our minds in the process of looking at these bills was that this museum is going to be transferred into what we would consider a quasi-governmental institution. As such and through the funding process of a quasi-governmental institution, you will have all of the safeguards of law.

So, many of these questions could quite possibly be raised in the Congress and the Senate in terms of propriety, in terms of what is indeed national cultural patrimony and what is indeed contemporary use cultural. This could be raised in that forum.

That interests us a great deal, because up to this point, we have been having to deal directly with trustees and often very difficult problems of just getting the ear of such boards of trustees. We have been in a long-standing battle for the return of wampums and medicine masks which are contemporary parts of our society today.

So, with those general observations, I would just like to read into the record our position.

This is Haudenosaunee testimony concerning S. 1722 and, I would add, S. 1723. It is being presented by myself, Oren Lyons, Faithkeeper, Onondaga Nation, fire keepers of the Haudenosaunee, also know as the Six Nation Iroquois Confederacy.

To elucidate some of the testimony I heard earlier here today, proper pronunciation of Hiawatha is "Hianwentaw." And we don't use the other name that was presented. We simply call him Great Peace Maker. Only when we raise chiefs is that name mentioned. I just add that to clarify some of the statements that were said today.

The Onondaga Nation as fire keepers of the Haudenosaunee makes the following statement regarding the proposed move and consolidation of the Museum of the American Indian-Heye Foundation with the Smithsonian Institution, Washington, DC.

We believe that certain legal, ethical, and moral questions must be answered prior to any removal of the Heye Foundation's collections to Washington, DC.

The Haudenosaunee has a vested interest in the Heye Foundation collections because it contains objects and items of our national cultural treasures.

The questions revolve around the issue of repatriation of our national treasures. Specifically, we address the collection of the Haudenosaunee medicine masks. We, the Council of Chiefs, claim these to be Haudenosaunee national patrimony belonging to the people of our respective nations.

Further, we claim that the possession and display of these medicine masks violate the human rights of our people and the group rights of those medicine societies and the people that they serve.

The second section for sacred objects we claim as national treasure and patrimony are the beads, strings, and belts of wampum in the collection of the Heye Foundation. The possession of such items constitutes a violation of the human rights of the people and a violation of the group rights of the Council of Chiefs of the Haudenosaunee.

The possession and display of these sacred objects pose a moral and legal question to the Senate and Congress of the United States since the bill will remand these objects into the possession of a quasi-governmental institution.

In our opinion, the present bill does not adequately protect the interests of American Indians and Native Alaskans and does not take into account the challenges of the Haudenosaunee or the other Indian nations and tribes which may also choose to challenge.

Sections 105(a)(2)(A) and 105(a)(2)(B) talk of "exchange or sell or otherwise dispose of property." This could not occur if title to said property were being challenged.

Section 105(a)(2)(C) talks of acquisition with sole authority vested in the trustees of the National Museum of the American Indian. This brings forward the question of the make-up of the board of trustees. It is our opinion that the new board should be predominantly American Indian and Native Alaskan. This would ensure proper understanding and sensitivity to the subject of acquisition.

This would also pertain to section 105(a)(2)(B) on the subject of determining policy to the method of display of artifacts. We suggest 11 of the 21 trustees be American Indian and Native Alaskan.

Section 105(B)(4) provides for an annual report to Congress. This is important because it is there that challenges will be made as to

violations of national, regional or local law, international law, or treaty obligations.

Section 105(C) should then be reconsidered to include a majority of the American Indians and Native Alaskans. This would ensure that issues of great sensitivity would lean in favor of American Indians and Native Alaskans. This would ensure that collections of skeletal remains of Native people would never again occur.

The makeup of such a board of trustees should be empowered to establish research priorities in the study of American Indians. American Indians and Native Alaskans should be able to set up and develop new areas of research that are of importance to native peoples, and there are many.

The important of policy for the administration of the museum would then be subject to oversight by American Indians and Alaskan Natives.

We, of course, agree that the present collection of skeletal remains of American Indians be put to rest with proper ceremony. We also agree that a memorial to American Indians is long overdue and that this is a good and proper endeavor.

As a final statement, we note with irony that the cultural heritage and patrimony of the Native peoples of North America are a pawn between power sectors of the dominant American society much the same as our peoples and lands were historically a pawn between Western nations and ideologies.

We believe that the collections of the Heye Foundation in New York and the Smithsonian Institution constitute the greatest collections of Indian and Native materials in the world, enough to fill both museums ten times over. We suggest that you consider a revolving exhibition in the new Museum of the American Indian on The Mall in Washington, DC and the new Museum of the American Indian in the Custom House in New York, thus serving simultaneously two great centers of humanity.

We also suggest that you find a permanent residence for the American Indian Community House in this new Museum of the American Indian in the Custom House in lower Manhattan. The public would be served, and peace between neighbors would return.

But before all this, please return to us our national cultural treasures. Our people still suffer.

Attached you will find our position, opinions, and observations regarding repatriation of Haudenosaunee national treasures that was presented at Columbia University in 1986. This is already in your office and will be distributed.

We thank you for this rare opportunity to speak on behalf of our people and the captive spirits in your museums.

[Prepared statement of Mr. Lyons appears in the appendix.]

The CHAIRMAN. I thank you very much, Chief.

Our next witness is the Governor of the Zuni Pueblo, Mr. Robert E. Lewis.

STATEMENT OF HON. ROBERT E. LEWIS, GOVERNOR, ZUNI PUEBLO, NM

Mr. LEWIS. Thank you, Mr. Chairman.

I have a very brief statement that I would like to read for the record and follow it up with some comments in regard to discussions that were held today.

The CHAIRMAN. Please proceed.

Mr. LEWIS. Mr. Chairman and members of the committee, my name is Robert E. Lewis, and I am the Governor of the Pueblo of Zuni in New Mexico. On behalf of my tribal council and my Zuni people, I extend our appreciation for the time given us to appear before this committee in regard to S. 1723, the American Indian Regional Museum Act of 1987 which we fully endorse.

It is a sad fact that a greater percentage of the American Indian population throughout the United States have never realized the vast number of art objects and artifacts that have been stashed away in museums for many years that were taken out of their homelands, let alone the general public. Wagon loads of artifacts and other objects were hauled out of our reservations by workers for the Department of Ethnology under Army escort in the late 1800's and early 1900's, and only in recent years have we come to know where they were stored.

We also strongly endorse the proposed creation, through S. 1722, of a National American Indian Museum and Memorial Act which would establish a National Indian Museum on The Mall in Washington as part of the Smithsonian family of museums. However, we also agree with the concept that it is time that a family of satellite museums be planned to make Native treasures more available to all Americans as implied in S. 1723.

The unequalled collection of over 1 million Indian art objects and artifacts that the Museum of the American Indian-Heye Foundation located in New York City has should be accessible to the public which is not so at present. Back rooms and storage bins are not the place for these treasures.

We understand that museums are expensive institutions to operate, but the working together of people in this line of work and if proper plans are laid out for the relocation of the Museum of the American Indian-Heye Foundation from New York City to Washington is implemented, then plans can be made to establish the regional satellite museums that we would like to have.

We appreciate and commend the efforts being made by caring legislators through these bills to implement what we all know is right and request sincerely their passage.

Thank you.

In relationship to museums, I would have to disagree with the previous speaker that we had nothing to offer if we had one built in Zuni. For the thousand ruins that we have on our reservation, we would need another Smithsonian.

The 1927 Heye expedition excavated 300 rooms of the village where Coronado first came into contact with my Zuni people in 1540, 80 years before the pilgrims landed on this side. We have made plans that hopefully we can re-excavate that ruin and rehab it with another one about 2 miles across the way which were historic.

Then we have two prehistoric ruins in our immediate area of our reservation that we would like to set up in the same manner for tourism. We do not have many other resources to depend on right

now, and anything that we can do to attract and share with the general public our history through what we can offer of the past and our traditions, then we would be educating each other which right now we are not doing.

We have so much history in our area. In fact, we are the gateway to what is now the State of New Mexico from the west, because the Arizona line is 12 miles away from our main village.

There were the Seven Cities of Cibola when the Spaniards contacted the Zuni people. Although the other six are gone, we have one main centralized community now, but in referring to what can be done with artifacts in a planned manner, we are talking about two bills companions to one another and which can complement one another if they are passed and implementation takes place.

However, we will have to plan a real good, systematic type of plan and a system that can take care of the things that have been covered by everybody's comments today. We know that it can be done. It only will take people getting together to sit down and plan on the areas.

One area is very distasteful because of the nature of that particular matter, and that is in regard to the skeletons. Some cannot be identified, but in the identification process, how would things be brought out in right light that a skeleton came from that particular tribe, although maybe they would have a label on it. It could have been an enemy tribe to that reservation when they for some reason had to confront each other in days past.

There are so many things that are tied in that we cannot really zero in on in the identification process, but we do have to give respect to our people that have gone, no matter which tribes they are.

We are sincere about our concerns as much as you are which we are thankful for. When we get down to tacks in regard to the planning process, we just wanted you to know that my people as a whole are fully endorsing your concept in your bill and also the concept that is within the bill introduced by our Senator Jeff Bingaman.

So, we are open to questions. There are a lot of answers that we can give, but in the short time that we are allotted at these hearings, it is very difficult to put things across, but we are always hoping to assist in any way with information or whatever would make a good thing come out better.

Thank you, Mr. Chairman.

[Prepared statement of Mr. Lewis appears in the appendix.]

The CHAIRMAN. I thank you very much.

Before proceeding with the questions, I would like to note that we are privileged to have with us in this audience a very distinguished Indian leader. He is the Chairman of the Tribal Council of the Yakima Nation, Mel Sampson. He was recently selected as the Indian leader of the year.

Mr. Sampson, would you care to come up?

I gather that all of you are of one mind as to the advisability of the establishment of a museum under the auspices of the Smithsonian on The National Mall. Are there any Indian tribes who are against this proposal that you are aware of?

Mr. GONZALES. As far as NCAI is concerned, in our meetings that we have held for the last 1½ years or so, we haven't heard any expression of any opposition to the concept.

The CHAIRMAN. Would it be possible for the leadership of the Indian country to get together to come up with your recommended amendment to title II on the interment or the burial or the disposition of skeletal remains?

Mr. GONZALES. Absolutely. I think that question is a very sensitive one, and how each tribe deals with it is something that will have to be dealt with on a case by case basis.

I know a lot of tribes have indicated a lot of concern over that issue, and I know that in Pueblo country, as I mentioned earlier, we have not fully discussed how we are to deal with that issue and whether it would be best to handle those remains in a certain way or whether we would rather not receive those remains altogether. Then again, it depends on a Pueblo by Pueblo basis. It varies.

The CHAIRMAN. Are you suggesting that title II be deleted from the measure?

Mr. GONZALES. I would suggest not. I believe there are some solutions that can be developed. It is just a matter of getting the tribal leaders together and figuring out how best to deal with that matter. Some of the leaders may want to address that themselves.

The CHAIRMAN. Chief Lyons, do you have a thought on this?

Mr. SAMPSON. Mr. Chairman, if I may, for the record, I am Mel Sampson.

If the question about deleting title II means the remains would remain in the Smithsonian, I would say definitely not. I think there are some communication mechanisms through the Indian organizations that are in place now that a proper response at least from the regions or the areas that we come from may be a manner in which we could address this issue.

Conceivably, at least as was brought out here in the testimony from what I have heard, each particular area and, in most cases, each tribe is unique in their concepts as it pertains to putting away the remains of one of our deceased. I think we have some mechanisms at least in the Northwest with the Northwest Affiliated Tribes.

We could probably get together in some format and make some determination. You are talking about 38 tribes there for which we could probably come up with some consensus.

So, I think there is a way, given the proper time, that an adequate and feasible concept could be addressed.

The CHAIRMAN. I would like to call upon the spokesman of the Iroquois Nations.

Mr. LYONS. There is a curious catch 22 with this process. From what I understand and what I have learned—I have had schooling in museum technology—the value of remains for study depends immediately upon the documentation. If there is no documentation for remains, then the remains become almost valueless in terms of study.

So, it seems to me that the way things sit here that the skeletal remains that can be identified which would be the ones that would be of most value to be studied go home immediately leaving this

vast group of remains that no one knows who they belong to and what sort of studies would be conducted.

I am curious as to that. I am curious as to the style of study.

The CHAIRMAN. It is conceivable that many of the remains are not Indian.

Mr. LYONS. That is true. That could be.

The other part of it is that the question of whose they are is certainly a standing question, but there is one thing that we do know. We know whose they are not, and they are not the Smithsonian's.

The CHAIRMAN. I have been advised that, at the least, the Smithsonian would be able to identify the general location, the regions, from whence they originated.

Mr. LYONS. Well, I think that would be a great help for the people here to know at least generally where they come from so some kind of determination could be made. I think that Mr. Sampson's observation that they remain upon the shelves as an alternative is not a very good one.

Again, under that light, it kind of behooves the American Indian population to come to some kind of conclusion, because if they do not, that is what will occur. Further than that, there are some vast collections in other than the Smithsonian.

The CHAIRMAN. The committee does not wish to add to the desecration by providing for an interment that would be highly improper as far as your religious beliefs are concerned. Therefore, it is very important that you advise us as to how this matter should be addressed.

Mr. LYONS. It would have to be coming from a consensus determination and discussion with the elders and with leaders from different parts of the country to sit down and directly discuss what the alternatives are if we do not reach such a conclusion or what is the best place or perhaps a variety of interments or places of sacred areas which would immediately become more sacred.

All of that can, I think, be addressed by allowing some kind of discussion to take place in Indian country on this specific issue. It is a concern of everyone.

The CHAIRMAN. I would like to tell you that although the members of the New York delegation were not here to listen to your testimony, their staff assistants have been here throughout, and I am certain that they will report to their principals at the earliest possible time. I was told by the two Senators that they had to leave because of prior commitments, and the Mayor and the Lieutenant Governor had to return to New York City.

So, they have asked me to express their regrets to you, but we will be sharing your testimony with them, and I think your message will come across very strongly.

I thank all of you for joining us this afternoon. Your testimony has been very helpful, and we hope to continue this dialog, especially on title II.

Thank you very much.

At this juncture, without objection, the statement of Senator Adams on S. 1722 will be made part of the record. The Senator has also requested that he be named a co-sponsor. It will be so ordered.

[Prepared statement of Senator Adams appears in the appendix.]

The CHAIRMAN. Our next witness is Ms. Ann Rockefeller Roberts, the co-founder of the Rockefeller Family Fund of New York.

I would also like to call upon Mr. Alvin Josephy of the Museum of the American Indian.

Ms. Roberts and Mr. Josephy, welcome.

STATEMENT OF ANN ROCKEFELLER ROBERTS, CO-FOUNDER, ROCKEFELLER FAMILY FUND, NEW YORK

Ms. ROBERTS. Senator Inouye, it is an honor and a privilege to have the opportunity to testify today on behalf of a National American Indian Museum on The Mall in Washington, DC

Before I begin the few comments that I would like to add to the many wonderful things that have been said already, I would just like to say a very short word in support of the members of the board of trustees of the Museum of the American Indian. I was on that board from 1976 to 1983, I believe. During that time, there was never a time when the members of that board were not committed to preserving and guarding that collection. There was never a time when they weren't seeking with all of their resources to find a proper home for the cultural legacy that they held.

In particular, Dr. Roland Force gave unstintingly of his time and energy at all times. I think that if he were a man of less courage and less dedication, he would have long since left the Museum of the American Indian and gone somewhere where it was more comfortable and there were fewer problems and difficulties.

I loved my time on that board, but other things drew me away, so that is one of the reasons I am particularly honored to be allowed to speak today.

In preparing what I wanted to say, I asked myself what was important, why this issue has mattered so much, so long, to so many people and has caused so much controversy.

Margaret Mead always said that we should raise the level of the dialog in order to understand more fully what we do. I understand that to mean that we must look to the heart of the matter, that we need to seek the truths that are central to the situation and lie behind our disagreements.

It seems to me that the answer lies in the character of our Nation's Capitol, in the nature of the Heye collections, and in the relationship between our two cultures, that is, the Native American culture and the white European culture of which I am a part.

Washington is the symbolic center of our country. It is also the seat of our national government. Furthermore, it houses in its extraordinary museums the materials that reflect the general American experience. It is the place we all go in order to understand who we are. We send our young. We invite our visitors.

It is also interesting that Washington is a district rather than a State, the District of Columbia. That sets it apart from the States, each having their own governments. It is therefore a neutral zone that speaks to all Americans and is available to all Americans, not political or partisan. It is a place where we can reflect, where we can renew our ideals without being limited by any particular region or group.

Washington is also a giant, living archive. It is a repository for our legacy, our past, our present, and our hopes for the future. It seeks to be complete. We need it to be complete in order to be complete ourselves, in order to know our experience in its entirety.

That experience includes the legacy of the American Indian, the original inhabitants of this land.

Their history, culture, and art, their understanding of the land, and their ideology and spiritual values are a part of what this country is and of whom we all are. Now, that piece is missing. It is like having a missing front tooth.

Therefore, it seems inevitable, normal, necessary that there is in fact one remaining space on the mall. Having a National American Indian Museum in that space would allow a fullness of how we understand ourselves and a completion of the experience that is uniquely American.

The Heye Foundation indicates itself to be a collection of major significance suitable to be in such a museum. It is the only collection in existence of comparable breadth and depth. There are other superb local or regional collections across the country but none that represents the fullness of the Indian experience in both North and South America as it does.

Should not such a collection be in the symbolic center of our country where it can speak to us all? Shouldn't it be available to our citizens at large and not just the citizens of one city? Shouldn't it be a collection where the people it represents and from whom it comes can have more extensive access to it?

The Heye Foundation is at this time located in New York simply because that is where George Heye lived. It is not in New York because its collections are intrinsically related to New York alone or particular to one kind of expression. It is not a regional or a provincial collection. It is national, even continental, in its scope, and it demands to be in a national setting.

Native American culture permeates our white European culture at every level. In the 1920's when Carl Gustav Jung, the great analyst, visited the United States, he spoke about the "mysterious Indianization" of the American soul as the result of living on this shared soil. He commented that the Yankee-American presence was remarkably different from the European presence both physically and psychologically.

He said, "The hero is always the embodiment of man's highest and most powerful aspiration or of what this aspiration ought ideally to be and what he would gladly realize. It is therefore of importance what kind of fantasy constitutes the hero motif. In the American hero fantasy, the Indians' character plays a leading role."

In everything on which the American has really set his heart, we catch a glimpse of the Indian—his extraordinary concentration on a particular goal, his tenacity of purpose, his unflinching endurance of the greatest hardships. In all these, the legendary virtues of the Indian find full expression.

We have put Indian symbols all about our culture. We have an idealized Indian head on our five cent piece. Many of our public buildings and public spaces have Indian sculpture as adornment,

signifying our desire to emulate traits of dignity, courage, endurance, and personal strength.

At the level of governments, our constitution and our representative system of government are based on that of the Five Nations. There are others who have described this today, including Mayor Koch who spoke of how this is a part of the heritage of New York. It is a part of the heritage of our entire nation.

It is also known that both Benjamin Franklin and Thomas Paine recommended the Iroquois system of government to the colonies.

Then there is the eagle, the emblem of the United States and a central symbol to the Indian people as well. To the Indians and to all ages, it is honored as the messenger from heaven, and the eagle is constantly referred to in biblical passages.

The names of our towns and cities, our lakes and rivers bespeak our Indian heritage as well. All across the country, we find names such as Seattle, Mount Kaatahin, the Mohawk Valley, Seba[illegible] Lake, Niagara Falls, and Saratoga Springs.

In the world of sports and the out of doors, we are indebted to the Indian for lacrosse, the canoe, snow shoes, and our way of camping out. The idea of the Boy Scouts and the Girl Scouts was also inspired by Indian lifestyles. Those movements became a way of building character through contact with the out of doors, a way of recognizing the importance of the values of our Native people.

When we shop or sit down at table, we are surrounded by the food of Native Americans. There are many foods that were unknown until the early settlers came and encountered them, including avocados, beans, potatoes, peanuts, peppers, pineapples, sunflower seeds, squash, pumpkins, turkey, tomatoes, wild rice, and, of course, the fundamental sacred grain corn. All of these were under cultivation when the first colonists arrived, and several of them have become the foundation of other national cuisines such as the Italian tomato based sauces and the potato in Ireland.

American Indian arts and crafts have greatly enriched our heritage as well and are perhaps the most well known, acknowledge, and accepted influence and contribution because of their non-controversiality. The skills of the artisans and artists are really legendary, their workmanship exquisite and of high quality.

Their imagery is not only precise and particular to them, it is universal. Yet, the materials they use are immediate, particular to the Earth.

It is this combination of precise images, universal symbols going beyond the object to something larger combined with the particulars of the Earth resonant materials that speaks immediately to our Earth rootedness, our humanness.

Finally, the land, the Earth that is common to us all—our Indian brothers and sisters have always understood the land is sacred, that it is our life, our mother. We have largely ignored this teaching until recently. Now, we again can turn to the Indian traditions and find much to guide us in understanding how to live in harmony with that land.

They have practiced always the ideals of Thoreau and Emerson, always accepting the divine presence as manifest in the natural world. As Chief Seattle said in the 1800's

"This we know. The earth does not belong to man; man belongs to the earth. This we know. All things are connected like the blood which unites one family. All things are connected.

Whatever befalls the earth befalls the sons of the earth. Man did not weave the web of life, he is merely a strand in it. Whatever he does to the web, he does to himself.

One thing we know—our God is the same God. He is the God of man and His compassion is equal for the red man and the white. This earth is precious to Him and to harm the earth is to heap contempt on its Creator." Chief Seattle.

Finally, the depth of their spiritual tradition is as equal to all other great traditions. Their spiritual leaders speak the same universal truths that welcomed as Protestants, Jews, Catholics or members of other religions.

All these things are what come to my mind, not as a scholar of any expertise but as one American living in the most urbane of cities. As a child, a young girl, a woman, my psyche was informed by these things. They were part of a growing awareness of this culture that began to be cumulative in me. They evoked a response in my humanness from the depth of their humanness.

We have taken all of that richness all these years while refusing to fully receive its people or to recognize the integrity of their culture. It is surely time that we honor the source of so much. This we can do by creating an outward, visible form, a building, a museum in our country's center and sacred place, filling it with the signs and symbols of these people.

We can do this with admiration, not pity or guilt, with a final realization of the true value of this part of ourselves as Americans. By doing so, we can restore the balance within our culture.

We are each Indian in that sense. My life experience is of theirs. The totality of who I am includes them. Their values inform mine. Their health or sickness is my health or sickness as an American.

So, why do we wait? Let us give up the arguments born of partisanship's politics and cleave to the truth that we are indeed one people born of this land of America, and it is surely time to acknowledge our Indianness by building a monument at our sacred center to house its presence.

It is time to celebrate, to make manifest in an outward form what is already so within us all.

And I would like to read two quotes to conclude. One is from Anna Walters: "It is in remembering that our power lies, and our future comes. This is the Indian way."

The other is from Geary Hodson: "Heritage is people. People are the earth. Earth is heritage. By remembering these relationships—to the people, the land, the past—we renew in strength our continuance as a people."

Thank you.

[Prepared statement of Ms. Roberts appears in the appendix.]

The CHAIRMAN. I thank you very much for your most moving statement. I am certain your father would have been very pleased to have heard this. He sat there many years ago on a confirmation hearing for the vice presidency in this very room.

In fact, I am taking the liberty of reprinting your statement and making that part of the Congressional Record and urging my colleagues to read that. I don't see how they can vote against the bill.

Ms. ROBERTS. Thank you.

The CHAIRMAN. Mr. Josephy, we would be pleased to hear from you.

STATEMENT OF ALVIN M. JOSEPHY, JR., TRUSTEE, MUSEUM OF THE AMERICAN INDIAN, NEW YORK

Mr. JOSEPHY. Mr. Chairman, as a trustee, I want to express my appreciation for the opportunity to be heard, and also my deep gratitude to you and the members of this committee and your co-sponsors for really showing us the light at the end of the tunnel and doing so much to try to find the answers to this long and thorny problem with which we have coped.

The time is late now, and I am not going to take much time, but I would like to express one thought.

I should start, I suppose, by telling you that I first became interested in American Indians during World War II and right after World War II. I came home from Iwo Jima, went on a bond tour, and there was a young Indian, a Pima, named Ira Hayes who was on that bond tour. I became involved somewhat in his problems later on which were very tragic, but they were the tragedy of the American Indians. He came home to very poor conditions on his reservation and to bad treatment.

I began to see that there was a tremendous problem in our country affecting American Indians, about which practically no non-Indian was aware or really showed much interest. Through the years, I saw this communications gap that existed between Indians and non-Indians, and I spent a lot of my time writing on the subject in various kinds of attempts to try to help close that communications gap.

That gap has done great continuing harm to the Indian people of our country and to the new generations of Indian children. It has denied them their own pride and their own sense of identity. Things have been getting better recently but it still exists.

It has also harmed all the rest of us. It has kept us apart from Indians. Indians are very familiar to all of our population but are actually still very much unknown.

When the museum came into my life—and that was about 10 years ago—I was asked to serve as a trustee by the attorney general of New York at the time. I saw a great opportunity to bring an Indian museum into being in this country that would have no peer.

I am familiar with the archeological museum in Mexico City. Perhaps you have seen that great museum. Once when I was there, I saw a number of Indian families, some of them barefoot, showing their little children the work of their ancestors, the heritage that they had given to their country. There were tourists there watching this and being moved by what they were seeing, and also other Mexican people, non-Indians.

I remembered that, when I joined the board as a trustee of the Museum of the American Indian, one of the first things we did was to sit down and draw up—the whole board at that time— our plans and our hopes for a great Indian museum for this country. We had other immediate problems, the relocation of the museum, the conservation of what we had so that it didn't just disappear into dust, and the fund raising, and so forth.

We worked very closely with Native Americans so that we weren't doing something all on our own. But the idea really was to provide a museum of living people, a museum of our Indian life of today illuminated by what had happened in the past, so that we would have a a museum—preferably in New York at that time because that is where we were all dedicated to working and keeping the museum—and that, once it was relocated and set up, we would have so much that we could also begin to send this material out to the reservations, to their museums, and to various regional museums, and be able to spread the information and knowledge and understanding.

The entire operation would be one which would be designed to bring the Indian and the non-Indian closer together in understanding and harmony and good will and break down the stereotypes, break down the misinformation.

That has been our dream ever since.

Now, we have been tossed around in New York to such an extent that it has been impossible to persuade some people about this kind of thinking. They have looked on our museum as a collection rather than a vehicle. Our museum really should be viewed as a vehicle, a vehicle to bring about understanding and great changes for the better in the relationship between Indians and non-Indians in this country.

That, I think, is the thought that I would like to leave with you. I personally am inspired by finding that kind of thinking reflected here in this legislation and in what you are doing and in what your staff and fellow members of the committee are doing.

It has been very hard to find that kind of response, for me anyway, in New York City, and I grew up there. I have nothing against the people from New York who have their points of view about it, but in all honesty, I have never been able to get a reaction of that kind from anybody. It has even been hard to show the wrongness about a museum in which you lump the Indians in with insects and birds and whales and so forth. It just doesn't enter their consciousness that there is something wrong with that, and it doesn't make sense to them that time has passed by that kind of thinking.

I think we can proceed through all the nitty-gritty that has to be coped with, but bear in mind that what we are aiming at in the long run is a great museum to bring out all the things that we have heard today from the Indian peoples themselves and Ann's eloquent statement here. That should maybe be a philosophy that guides us from now on.

Thank you very much.

The CHAIRMAN. I thank you very much, Mr. Josephy.

As long as this committee can receive testimony such as you have presented this afternoon, there is great hope in this nation.

Thank you.

Our final witness is Mr. Robert Gresham, the Acting Executive Director of the National Capitol Planning Commission.

STATEMENT OF ROBERT E. GRESHAM, ACTING EXECUTIVE DIRECTOR, NATIONAL CAPITAL PLANNING COMMISSION

Mr. GRESHAM. Thank you, Mr. Chairman.

With me this evening is Katherine Barns Soffer, our general counsel, and we appreciate the opportunity to present our testimony on S. 1722 today.

By way of a little background on the Commission, the Commission is a Federal agency mandated by the National Capital Planning Act of 1952 to serve as the central planning agency for the Federal Government in the National Capital. The Commission comments and advises upon the location and construction of Federal public buildings in the National Capital and its environs and has what we refer to as "in lieu of zoning" approval over the construction of Federal public buildings in the District of Columbia.

With respect to memorials, the Commission operates under the recently enacted Commemorative Works Act of 1986. Section 7 of that act gives our Commission as well as the Department of the Interior and the Commission of Fine Arts approval over the site and design of all commemorative works placed on Federal lands in the National Capital region.

The commission, Mr. Chairman, supports the concept of a National Museum of the American Indian. The Commission feels it would obviously be an important addition to the Smithsonian Institution's enclave of museums.

In fact, such a museum on the site proposed would be consistent with the elements of the comprehensive plan that the Commission has prepared for the National Capital which calls for the extension of cultural facilities along Independence Avenue from 3rd to 14th Streets.

In spite of the Commission's support for the general concept, we do have certain concerns about the bill that we would like to raise this evening.

The first is the size of the building. Title I of the bill, as we understand it, authorizes, at a minimum, a 400,000 square foot National Museum of the American Indian on U.S. Government Reservation No. 6.

Based on our staff's evaluation of the size of this particular site and the relationship of this site to its neighboring buildings, particularly the U.S. Capitol Building, we believe that a 400,000 square foot building on this site would be substantially too large for the area. We understand that the Smithsonian Institution has generally expressed this same concern.

We realize, of course, that the project is in a very early stage and that plans really have not been prepared, but we do feel that such a building would be out of scale with the surroundings, particularly, we believe, with respect to height.

Therefore, the Commission has recommended that the bill contain no reference to a minimum size. We understand that the Smithsonian Institution, I believe, has recommended another possible solution with respect to some of the storage actually being designated for the Suitland facility.

The next point, Mr. Chairman, recognizing the great sensitivity on this subject as has just been discussed in the past hour or so, the

Commission is also concerned with respect to the proposal to include a memorial in which the skeletal remains of native Americans in the Smithsonian's collection would be interred on The Mall. The Commission believes that this would set an unfortunate precedent which could lead to other requests for burials in this very important area in the heart of our Nation's Capital.

We note, of course, that the Smithsonian Institution as well as several of the speakers before me have spoken about this, and we certainly would rely on their expertise in this area.

Finally, I have already made mention of the Commemorative Works Act, and if we understand the act correctly, the site and design of a memorial would be subject to the approval of the Planning Commission as well as the Department of the Interior and the Commission of Fine Arts, notwithstanding the provisions in the bill that would authorize the design and authorize the Board of Regents to finalize the design plans. We would therefore suggest that the Commemorative Works Act be specifically referenced in S. 1722 so as to avoid any confusion in that area.

That completes my remarks, Mr. Chairman. I would be happy to respond to any questions.

[Prepared statement of Mr. Gresham appears in the appendix.]

The CHAIRMAN. I can assure you that the proper reference will be made. It is the intention of this committee and, I am certain, the intention of all Members of Congress that whatever is built on the site will conform with the requirements that the Commission will set forth. We also realize that whatever plans we have will be subject to your approval.

Mr. GRESHAM. Thank you very much, Mr. Chairman, and we certainly look forward to working with your committee and the Congress and the Smithsonian and all of the other important parties that would be involved in this project.

Thank you.

The CHAIRMAN. Thank you very much, sir.

Before adjourning the hearings, I have been asked to make the following announcement. The United South and Eastern Tribes invite you to a reception in honor of the future National Museum of the American Indian. It started one-half hour ago in room 628, Dirksen Senate Office Building.

Thank you very much for your attendance. We appreciate it very much.

[Whereupon, at 6:32 p.m., the committee adjourned, to reconvene subject to the call of the Chair.]

83-404 - 88 - 4

APPENDIX

Additional Material Submitted for the Record

STATEMENT BY SENATOR JEFF BINGAMAN
The American Indian Regional Museum Act of 1987
November 18, 1987

I thank Chairman Inouye and Chairman Ford for scheduling today's hearing to receive testimony on the National American Indian Museum and Memorial Act, S. 1722, and the American Indian Regional Museum Act of 1987, S. 1723. I am pleased to be a cosponsor of S. 1722, legislation introduced by Senator Inouye to establish the National Museum of the American Indian within the Smithsonian Institution. I strongly support Senator Inouye's efforts to bring this important collection to the Smithsonian and our Nation's capital.

However, I speak today in behalf of S. 1723, a bill I introduced with Senator Inouye that adds a regional component to the National Museum of the American Indian.

The bill would authorize the Smithsonian, with the cooperation of the National Park Service, to establish six regional museums in the United States so that more citizens throughout the country can enjoy our national treasure of Indian art and culture. It is incumbent upon us to make these treasures available to as many Americans as possible. The regional museums would do that, and in so doing, would educate and enrich the American people.

For too long, we have witnessed a steady erosion and removal of artifacts from Indian religious and sacred sites in every region of the country. The cultural legacy of the American Indian, as defined by art, is slowly disappearing from our pueblos and reservations. My legislation is a small

step toward ensuring that some of these artifacts are returned to the area from which they were collected.

While I strongly endorse the proposed creation of a National Indian Museum on The Mall in Washington as part of the Smithsonian family of museums, the time has also come for a family of satellite museums to make these native treasures more accessible to all Americans.

Statistics reflect the need for the legislation we are discussing today. The Heye Foundation's Museum of the American Indian in New York City displays only about 5 percent of its available collection. That collection includes 1 million Native American objects. This means that more than 950,000 objects are unavailable for public viewing and appreciation. Is there any doubt that we would benefit far more if this art was showcased -- especially in the very areas it was first found?

I have long felt the need for regional museums. Growing up in southwestern New Mexico--the location of the historic Mimbres Valley and the rich Mimbres culture--my neighbors and I had little opportunity to see the artifacts collected from the region. Unfortunately, most of these artifacts are found exclusively in museum collections on the East coast, not in the Southwest. I asked the Director of the Museum of the American Indian in New York to supply me with an inventory of those items in the Museum's collection from New Mexico. Director Roland Force estimates that approximately 5 percent of the total collection in New York is from New Mexico.

In 1983, I participated in a hearing in New Mexico on the issue of cultural resource management. At that hearing, federal, state, and local officials, archaeologists, and Indian leaders repeatedly stressed their belief that our cultural heritage was improperly protected and preserved. After this hearing, I asked the General Accounting Office to review the management of cultural resources on public lands in the Southwest and the extent of the loss of these resources. Its tentative findings reveal alarming incidents of theft and vandalism at Indian and other cultural sites.

The threat to our cultural legacy creates another incentive to establish regional museums. The presence of the museums with their educational and interpretive programs will help increase awareness of the importance of preserving and protecting the remnants of our past.

This is an essential component of my legislation. The bill requires that a comprehensive interpretive program be implemented to explain the relevance of the art displayed. This interpretative program will be an important educational tool in appreciating and understanding Indian culture. Additionally, a traveling exhibit program will be established

within each region, bringing art and history to schools and local communities that otherwise might not be able to host such an exhibit.

Returning the art and artifacts to their native regions is an integral part of this legislation. An important facet of this is the creation and encouragement of a comprehensive training program for Native Americans that would help them acquire the skills needed to establish their own museum facilities and manage and curate their collections. This issue should be comprehensively addressed by this Congress. To that end, I plan either to amend S. 1723 to provide for such a program or to offer additional legislation.

I hope that parents in New Mexico will not have to bring their children all the way to Washington to view objects that may have been taken from their own backyards decades ago. Certainly, excellent private and public museums in every state have done important work in preserving and protecting our history and culture. I believe my legislation is a key adjunct to those efforts.

I have spoken with Secretary Adams of the Smithsonian. He has assured me he supports the objectives of my legislation, although he is concerned about the creation of "new" museums. I am pleased to work with the Secretary to develop alternatives that will realize the same end. One option that might be the use of existing public and private museum facilities, rather than new ones, to display the collection and to host interpretive programs.

In this year of the celebration of the bicentennial of our Constitution, we should also recognize that our land is filled with other treasures that must also be preserved, protected, and appreciated.

I am pleased and honored to have with me today the Honorable Robert Lewis, Governor of the Pueblo of Zuni, and Mr. John Ware, the director of the Laboratory of Anthropology and Museum of Indian Arts and Culture in Santa Fe, New Mexico. Also, I have been asked to submit testimony on behalf of the Institute for American Indian Art and the Society for American Archaelogy. I ask that this testimony be included in the hearing record.

Thank you.

SOCIETY FOR AMERICAN ARCHAEOLOGY
Office of Government Relations
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Statement of the Society for American Archaeology
Before the Senate Select Committee on Indian Affairs
and
the Senate Committee on Rules and Administration

November 18, 1987

Mr. Chairman, the Society for American Archaeology is pleased to have been invited today to present this testimony today on S. 1722 and S. 1723.

S. 1722, the National American Indian Museum and Memorial Act

I. MUSEUM

The National American Indian Museum and Memorial Act would relocate the renowned Museum of the American Indian, Heye Foundation in Washington as part of the Smithsonian Institution. The Society for American Archaeology supports this proposal. Our central concern is less with the location of the collection than with the protection of and access to the materials. The Heye Foundation contains one of the foremost collections of Native American ethnographic and archaeological materials. The present facility in New York is unfortunately insufficient in curation, exhibit, research and security procedures needed to protect such valuable and irreplaceable artifacts. S. 1722 provides an excellent alternative.

The Society feels that relocation to the Smithsonian and construction of a new facility on the National Mall would be an excellent way to acknowledge the importance of the culture of Native Americans to our joint history. The Smithsonian Institution is our nation's premier museum institution. Placement on the Mall of a museum honoring Native Americans would be one way to provide appropriate recognition. The collections of the Smithsonian Institution would provide a fitting compliment to the OHeye Foundation museum.

The result would be one of the most comprehensive opportunities to interpret and understand the history of the New World, from earliest arrival of prehistoric people to modern indigenous populations. The question is, therefore, more than just where to house the Heye Foundation collection; more broadly, it is how to best preserve, present and understand at least 10,000 years of unique culture history. If the decision is made to retain the Museum of the American Indian, Heye Foundation in New York, then the Society must express its deep concern for improvement of curation and research opportunity.

II. MEMORIAL

S. 1722 makes provisions for a memorial to honor and commemorate Native Americans. The museum would provide a place for the disposition of some skeletal remains now in the Smithsonian Institution. The Society recognizes the scientific importance of a large collection of skeletal materials which can provide vital information relevant to many problems. Skeletal remains allow various kinds of scientists to study human adaptation, human biology, disease history including paleopathology, human demography, nutritional and health problems. The range of experts and range of discoveries associated with human skeletal remains is large and well described by Dr. Robert McCormick Adams, Secretary of the Smithsonain Institution, in his statement of November 12 before these Committees.

The Society recognizes both the need for greater public knowledge of the achievements of physical anthropologists and archaeologists when their subject matter is human skeletal material. From our own experiences strong cases can be made for these achievements. One of our own best examples of the important use of human skeletal remains involves a prehistoric skeletal collection from Kansas of over 500 individuals which was used to establish the degree of chemical absorption in life that provides a baseline measure of subsequent pollution absorption in modern times. Since the measures of carcinogens and other harmful materials are in their infancy, historical measures are central and human remains are very significant. Therefore, there is every reason to be careful in appraising the uses and disposition of our established museum collections.

We agree with the Smithsonian Institution's approach to dealing with human remains which includes identification of kin and return of appropriate remains. The major concern is that there be access to these collections for future scientific study. If the proposed memorial is symbolic, containing only those human remains with no scientific value, then the Society would not oppose it.

Lastly, we would like to point out an inconsistency in the language of S. 1722. At the beginning, in section 102 (11)(A), reference is made to materials not suitable for scientific inquiry. Title It makes no reference to scientific study of the remains.

S. 1723, the American Indian Regional Museum Act

The American Indian Regional Museum Act, S. 1723, offers an innovative and exciting opportunity to deal with many of the problems associated with museum collections, curation, and exhibition. The bill would provide a way to present Native American cultural materials to the people of the United States. It would bring the museum to the people.

This would allow for better public involvement, appreciation, enjoyment, and involvement in the unique history of the indigenous populations of North America. The Society for American Archaeology supports public outreach and education, training and interpretation -- which are all important elements in S. 1723.

One aspect of S. 1723 which the Society applauds is the opportunity to combine the existing Native American collections of the Smithsonian Institution with the extraordinary ethnological collections of the Heye Foundation. As discussed above, the compliment of two unique collections offers an opportunity to present a more complete picture to the residents of the United States of Native American life.

S. 1723 would allow for a partnership between the Smithsonian Institution, state, local, tribal and university museums. Destruction, damage and theft of archaeological and ethnological materials is rapidly increasing. S. 1723, through its public participation and appreciation elements, will help address these problems.

The Society has several recommendations concerning S. 1723. First, there is the obvious opportunity for establishing a training program for Native Americans in museum curation and collections management. There is an opportunity for scholarly research into collections which would not otherwise be available to scholars and students not fortunate enough to be near Washington or New York. The Society feels that there is a strong need for research grants, scholarships and training geared specifically to these collections. The Society does not take a stand on the need for new museum buildings, but strongly agrees with an effort to cooperate with existing museums to host exhibits and to act as staging areas for traveling exhibits.

The Society feels that S. 1723 is farsighted and attempts to address a problem which has existed for decades. The Society for American Archaeology supports S. 1723.

Thank you for this opportunity to testify.

TESTIMONY

BY

JOHN A. WARE

DIRECTOR

LABORATORY OF ANTHROPOLOGY

MUSEUM OF INDIAN ARTS AND CULTURE

MUSEUM OF NEW MEXICO

SANTA FE, NEW MEXICO

SELECT COMMITTEE ON INDIAN AFFAIRS

UNITED STATES SENATE

WASHINGTON, D.C.

NOVEMBER 18, 1987

On behalf of the Museum of New Mexico, I appreciate the opportunity to submit testimony on S.1723, a bill that would authorize the establishment of regional exhibition facilities as part of the Museum of American Indian, Heye Foundation. Since this bill is a companion to S.1722, which would authorize the establishment of a National Museum of the American Indian, Heye Foundation, within the Smithsonian Institution, my comments begin with a general statement of support for S.1722.

The primary concern of the Museum of New Mexico and, we suspect, the entire museum community, is for the long term care and conservation of the incomparable Heye Foundation collections. We believe that the collections of the Museum of the American Indian constitute a priceless National treasure. For this reason, we are encouraged by recent congressional proposals to transfer curatorship of the collections to the Smithsonian Institution, perhaps the only museum in the country with the resources to ensure the perpetuation of this important cultural resource.

We also support the establishment of a National Museum of the American Indian on the Mall in Washington, D.C., and it is our hope that an agreement between the Museum of the American Indian and Smithsonian Institution might help to make this dream a reality. Although there are portions of S.1722 with which we strongly disagree, specifically those sections that refer to the establishment of an American Indian Memorial for

the communal interment of skeletal remains, we strongly support the bulk of the proposal.

With respect to the establishment of regional exhibition facilities or satellite museums as proposed in S.1723, although we are sympathetic with the intent of the proposal, we have grave concerns about its implementation. Our primary objections to S.1723 are related to our concern for the care and conservation of a priceless research collection.

The Museum of New Mexico is generally in favor of the eventual repatriation of cultural and scientific collections removed from New Mexico and deposited in scientific and educational institutions outside the Southwest. Much of New Mexico's patrimony resides in museums and archives far removed and often inaccessible to our citizens. To the extent that proposed regional exhibition facilities would reunite New Mexico citizens with important elements of their collective heritage, we support the intent of S.1723. However, S.1723 is a sweeping proposal with profound implications for the care and management of the Museum of American Indian collection.

We have serious concerns, for example, about the impact of dividing and dispersing a systematic collection whose primary value lies in the fact that it is so well documented, so complete, and so comprehensive. The primary thrust of S.1723 is to make the Heye collection more accessible to the public by distributing portions of the collection to regional exhibition facilities, but there is no discussion in the bill

of the impact of such dispersal on the systematic research potential of the collection. Fragmenting a collection necessarily reduces its intrinsic value to students and scholars. We believe that these concerns must be addressed before any dispersal of the collection takes place.

Division and dispersal of the collection must also be preceded by comprehensive condition evaluations of individual collection objects. Specimens that are judged to be unstable or actively deteriorating must be conserved before the collection is dispersed, and this process will undoubtedly take years to complete.

We also have serious reservations about the creation of new regional exhibition facilities. Building new facilities would be costly, inefficient, and might significantly undermine existing regional programs and resources. New Mexico has recently completed a 32,000 square foot museum in Santa Fe for the exhibition of its extensive Southwest Indian collections. Other regions of the country also have excellent existing facilities, collections, and professional staff. It is our opinion that existing institutions would be the most practical recipients of future dispersals of the Heye collection.

In summary, although the Museum of New Mexico supports repatriation of collection objects in principle, many practical issues intervene to make the process of collection division and dispersal extremely complex and problematic. The Museum of New

Mexico can not endorse any plan or proposal to disperse the Heye collection until these complex issues are resolved.

STATEMENT OF THE ASSOCIATION ON AMERICAN INDIAN AFFAIRS, INC. ON S. 1722 AND S. 1723 BY DR. IDRIAN N. RESNICK, EXECUTIVE DIRECTOR, AND MICHAEL N. TAYLOR, EDUCATION PROGRAM OFFICER, TO THE SENATE SELECT COMMITTEE ON INDIAN AFFAIRS ON DECEMBER 10, 1987.

We appreciate the opportunity to submit written testimony before this Committee.

The Association on American Indian Affairs, Inc (AAIA) is a national non-profit citizens' organization headquartered in New York City and dedicated to the preservation and enhancement of the rights and cultures of American Indians and Alaska Natives. The policies of the Association are formulated by a Board of Directors, a majority of whom are Native Americans.

During the normal course of its work, the Association has solicited the views of people in various parts of Indian Country over the past year regarding the status and future of the Museum of the American Indian - Heye Foundation, currently located at 155th Street on Broadway in Manhattan.

Our views are our own, although we have tried to represent the sentiments expressed to us. We support of legislation under consideration, namely S.1722 and S.1723, to establish a National Museum of the American Indian in Washington, D.C. The Association on American Indian Affairs strongly supports those provisions of the proposed legislation which protect and preserve the existing collections, promote the exhibition of the collections to the widest possible audience, promote the display of the collections in such manner that illustrates that Native American cultures are an organic part of both their own and the general American past and present.

Concern about the status and future of the great national treasure represented in the collections of the Museum of the American Indian-Heye Foundation is not new among Native American people. However, once again, Indian people have felt powerless to make their views known on this subject, especially as an issue local to New York City and State. S.1722 and 1723 have rightfully broadened the inquiry. The present bills are rapidly gaining support throughout Indian country. Native American peoples are convinced that by establishing a National Museum of the American Indian and tying it to the Smithsonian complex (and therefore the federal government), the Museum of the American Indian will finally be able to rise above strictly local considerations and attain the stature which such a national treasure - absolutely unparalleled in the world - deserves. We wholly support this view.

There are other reasons for moving the collection to Washington, D.C. Few Native American people visit New York City on a regular basis. However, because of the unique relationship between the tribes and the federal government, however, thousands

of Native American people visit Washington every year and will finally have access to the collections. Non-Indians will have a much greater exposure to the collection than they do now and than they would have if it were moved to the Customs House at the southern tip of Manhattan. A museum in Washington, D.C. would achieve the twin objectives of using the collection to expose Native Americans to their heritage and educating the rest of the population about Native art, history, culture and religion.

Native American people see museum collections primarily as the heritage of living and future Native Americans. Because of the devastation of Native societies and the wholesale destruction or removal of their material cultures, such collections represent, in a much more profound way than do other kinds of collections, the resources for understanding the past, strengthening the present, and ensuring survival in the future. As a consequence, Native American scholars and students must be assured access to the collection. Training programs in the Smithsonian and elsewhere should be strengthened in order to help Native American people maximize their productive use of the collection.

On the issue of skeletal remains in museum collections throughout the country, including the large Smithsonian holdings, there continues to be deep concern among American Indian people. The establishment of a national memorial for the interring of human remains is of interest. However, we oppose the bill's provision that the question of whether or not particular remains will be interred, will be decided on the basis of their value for scientific study. This disturbs American Indian and Alaska Native people because the definition of what is necessary or suitable for scientific study rests, largely, with non-Indians. Many non-Indians involved with the question of Indian skeletal remains have bitterly opposed Native Americans' attempts to change the policies dealing with their ancestors' remains. Over a long period, such people have shown a lack of understanding and sympathy to Native American religious concerns and community views. Therefore, the bill should make Native American religious concerns the basis for decisions on skeletal remains. Non-Indian scholars are not entitled to unrestricted access to what they continue to define as "their" materials, i.e., the skeletal remains of Native Americans.

Congress, its legislation and the views and practices of the Smithsonian must be shifted toward Native American definition of their own history. To speak of pre-history, for example, is to denigrate Native American history and accomplishment prior to 1492. But the notion is also used to imply that present-day Native populations are not the heirs of their past; that, present-day Native American people can only be concerned with the remains of individuals they can identify as the direct ancestors. Such an argument is no more legitimate than one claiming that scientists could study Washington's and Lincoln's bones merely because they have no living direct descendants.

We are not entirely comfortable with the emphasis placed on the "advancement of the study of anthropology" in (1), Section 103. In the past it has been the very anthropologists, with their archaeologist and forensic colleagues, who have committed some of the worst offenses against Native American people. Strong opposition to increased Native American involvement continues to reside in this broad discipline.

Increased Indian participation in decisions about museum policies and procedures is mentioned in these bills. We think the legislation should go further, by requiring input from Indian elders, Indian museum professionals (of whom there are a growing number) and Indian artists and craftspeople, in order to make the National Museum of the American Indian a truly "Indian" institution. Since the Smithsonian has not always been willing to seek or accept such advise, or allow for Native American involvement, legislative empowerment of qualified Native American people is required. Fortunately, successful models of such possibilities exist already, including the Native American Advisory Council to the Denver Museum of Natural History.

It is to be hoped that every opportunity is given to the creation, in the new setting, of the most innovative and exciting displays, programs, and educational opportunities. Circumstances have prevented such things from happening in New York and, sadly, the Smithsonian's anthropology division is not recognized for its leadership in innovative thinking or presentation.

With respect to S.1723, certain questions arise. While there is certainly sufficient material in the Heye Foundation and Smithsonian collections to provide major satellites with magnificent displays of their own, it should be noted that there are existing facilities - reputable tribal museums, Interior Department regional museums (such as those at Amadarko, Oklahoma, Browning, Montana, and Rapid City, South Dakota), and National Park Service facilities which could form the initial system of travelling exhibit spaces. Certainly, the support of, and cooperation with, tribal museums is to be promoted. Regional museums should not only display the arts and artifacts of that particular region. Consideration should be given to innovative travelling exhibits which will expose the general public to the broadest possible range of artifacts and ideas. Permanent cooperative agreements between the National Museum of the American Indian-Heye Foundation, the Smithsonian Institution and existing regional facilities might allow for additional areas to be served which will otherwise have to await future legislation and appropriations.

We think that emphasis should be placed on the needs of living American Indians, as illustrated by the collections. Consideration might then be given to the establishment of regional museums in places not otherwise served, including New York City, where a population of some 15,000 Native American

people currently resides. This museum might be located at the site proposed be Senator Moynihan in the Custom House. If so, space should also be set aside at the same site to provide for the needs of the present-day population through the American Indian Community House and related urban programs.

Further, we strongly support Indian preference in hiring personnel for the National Museum of the American Indian, the Indian programs within the Smithsonian and the regional Indian museums. We applaud those programs within the Smithsonian and elsewhere (such as the Newberry Library in Chicago) which provide professional research and museology training to Native American men and women who wish to pursue careers in national, regional and tribal institutions.

In closing, we cannot overstress the need to rescue the collection of the Museum of the American Indian and protect it for all future generations. At the same time , this transition offers a unique opportunity to rethink, and therefore reorder, the way in which Native Americans and the items from their cultures are regarded, portrayed and treated by museums and the society at large. We urge and trust the Committee to act in a manner consistent with needs outlined in this testimony.

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TESTIMONY OF

CONGRESSMAN TED WEISS

BEFORE THE SENATE SELECT COMMITTEE ON INDIAN AFFAIRS
AND THE COMMITTEE ON RULES AND ADMINISTRATION

S. 1722 - THE NATIONAL AMERICAN INDIAN MUSEUM AND MEMORIAL ACT
S. 1723 - THE AMERICAN INDIAN REGIONAL MUSEUM ACT

NOVEMBER 18,,1987

Mr. Chairman, I would like to thank you for the opportunity to present my views today on the future of the Museum of the American Indian-Heye Foundation. I commend you for your efforts to work with representatives of the many sides of this issue, and for your interest in reaching a compromise agreeable to all.

First, let me express my full agreement with you on the priorities established at the luncheon meeting held last month. We must preserve and protect the Heye collection and display it in a location or locations where it will be studied and appreciated by the greatest number of people. I was pleased that consensus was reached on these fundamental points.

As you well know, the Museum of the American Indian houses the world's largest and most magnificent collection of art and artifacts from the aboriginal tribes of North, Central, and South America. We in New York feel very fortunate to count it among out most precious cultural treasures.

Chairman Inouye, I sincerely appreciate your interest in the Museum of the American Indian, but feel strongly that the resolution of this matter can and should be reached within New York State.

The Native American community is indeed deserving of recognition in Washington, D.C. I fully support efforts to provide a fitting memorial to Native Americans and wholeheartedly support construction of a superb museum in which to study and display Indian art and culture here on the Mall. I cannot, however, support the permanent transfer of the Heye Foundation collection to that museum.

George Gustav Heye, beginning in 1897 and until his death in 1957, traveled with scores of anthropologists all over the North and South American continents collecting Native American art and artifacts. At the urging of Archer B. Huntington, the owner of a large amount of property in Northern Manhattan with an interest in promoting the area's development, Mr. Heye established the Heye Foundation as a charitable trust in 1916. Together with Huntington, he built the beautiful buildings along Audubon Terrace which now house the Museum of the American Indian and a number of other scholarly endeavors.

There can be no doubt that it was the intention of Mr. Heye, a lifelong New Yorker, to keep his collection there. The trust indenture, over which Mr. Heye maintained strong control throughout his lifetime, states that the Heye Foundation was established in New York as a charitable trust "to promote the public welfare by founding, endowing, and having maintained a Museum in this state." The trust indenture further reads that among the purposes of the Museum was that it "promote the public welfare by actively advancing learning and providing means for encouraging and carrying on...work within the state of New York.

As you have said at an earlier meeting, it will be to no one's advantage, and certainly not to the advantage of the collection, to prolong this discussion in the courts. Any attempt to move the collection permanently out of New York would necessarily result in a costly and prolonged lawsuit. You will have the opportunity to hear the legal discussion of this matter from the New York State Attorney General, but let me stress the

commitment of those of us from New York to protect the integrity of our state's charitable trusts. If we cannot guarantee their protection, then donors will look elsewhere in the future for the preservation of their collections.

We also believe that it is not the place of the federal government and indeed it is bad policy for the federal government to step into local controversies and play "Big Brother." The federal government does not need to take this problem off our hands.

It has always been the intention of the New York political leadership to preserve and maintain the collection in the state. I am certain that it was your interest in and concern for the Heye collection, Chairman Inouye, coupled with the leadership so ably provided by Senator Moynihan, that gave the rest of us in New York the inspiration and sense of urgency we needed to come to an agreement on this matter. This is a significant occurrence and one that we take very seriously.

When I introduced H.R. 3413 on October 1 of this year, I had the support of 23 members of the New York delegation. Since that time, six additional members of the delegation have added their support, for a total of 29 New York cosponsors. Senator Moynihan's bill, as you know, has been cosponsored by Senator D'Amato. The Governor and Mayor of New York have each pledged substantial financial support for the Custom House move, and the Mayor has also promised annual operating assistance.

The idea of transferring the old U.S. Custom House at One Bowling Green to the MAI is not a new one. The Custom House, a classic 1907 example of the beaux-arts style of architecture

located in the 17th Congressional District of New York, which I represent, has significantly more display space than the current museum building, its location is easily accessible to visitors, and it would greatly compliment the neighborhood's other cultural institutions. The Lower Manhattan community is eager to have it there.

In fact, the Museum's trustees made it very clear during hearings held earlier this year by Senator Moynihan that they wanted to move into that building. Dr. Roland Force, the Museum's Director, said at that time that they sought the Custom House because "it is a building whose quality, design, size and location are admirably suited to our needs."

Now that the political leaders of the state and city have come together in support of the Custom House proposal, it is the obligation of the Museum Board to abandon any plans to leave.

I hope that you have had the opportunity to read the letter submitted early last week by my New York colleagues and me. I believe that in it we present a fair proposal that meets the needs and expectations of not only the state of New York but of the nation. Housed in the Custom House and at its current location at Audubon Terrace, the Heye collection would be available to the millions of residents and visitors of our country's largest city. And, with significant exhibits from the collection on display in Washington and in other parts of the country, it would receive the wide viewership it merits. In this way, we will all be able to learn about and share the proud accomplishments and contributions of our hemisphere's first

inhabitants which have so often been and continue to be overlooked and trivialized.

We believe that our proposal to move forward with the Custom House transfer while at the same time pursuing a new museum and memorial on the Mall with extensive, guaranteed borrowing privileges from the New York collection is the best way to observe and respect the Heye trust, our Native Americans, and all of the people of our country.

Thank you, Mr. Chairman.

STATEMENT OF CONGRESSMAN CHARLES B. RANGEL

HEARING ON THE MUSEUM OF THE AMERICAN INDIAN

THE SELECT COMMITTEE ON INDIAN AFFAIRS

SENATOR DANIEL K. INOUYE, CHAIRMAN

NOVEMBER 18, 1987

MR. CHAIRMAN,

GOOD AFTERNOON. I WANT TO FIRST CONGRATULATE YOU ON WHAT MUST HAVE BEEN FOR YOU A VERY SUCCESSFUL HEARING LAST WEDNESDAY ON THE FATE OF THE MUSEUM OF THE AMERICAN. IN FACT, TO USE THE WORDS OF THE ILLUSTRIOUS PAPER FROM NEW YORK CITY, THE NEW YORK TIMES, THE WITNESSES WERE BASICALLY "PREACHING TO THE CHOIR", GIVEN THE POSITION OF THE CHAIRMAN ON THE RELOCATION OF THE HEYE COLLECTION TO THE SMITHSONIAN. MR. CHAIRMAN, I THANK YOU FOR THE OPPORTUNITY TO PRESENT THE OTHER SIDE OF THIS MATTER AND TO SHARE MY PERSONAL THOUGHTS ON THE MUSEUM OF THE AMERICAN INDIAN.

AS YOU MAY KNOW, THE MUSEUM OF THE AMERICAN INDIAN IS LOCATED WITHIN THE BOUNDARIES OF MY DISTRICT. I UNDERSTAND THAT MANY OF THE INDIVIDUALS AT LAST WEEK'S HEARING REFERRED TO THE PRESENT SITE AS UNDESIRABLE, UNSAFE AND INACCESSIBLE TO THE ORDINARY CITIZEN. FURTHER, I UNDERSTAND THAT THIS ARGUMENT WAS CONSISTENTLY USED BY REPRESENTATIVES FROM THE MUSEUM BOARD AS THEIR REASON FOR WANTING TO LEAVE NEW YORK CITY.

LET ME FIRST RESPOND TO WHAT I CONSIDER SLANDEROUS REMARKS MADE AGAINST THE WASHINGTON HEIGHTS AREA OF MY DISTRICT. OF COURSE THERE ARE PROBLEMS IN MY DISTRICT, I AM ONE OF THE FIRST TO ADMIT THAT. BUT LET ME SUBMIT THAT THE PRESENT LOCATION COULD NOT BE MORE CENTRAL AND ACCESSIBLE AND THAT IT RANKS WITH ANY OTHER AREA IN MANHATTAN IN TERMS OF OTHER AREAS IN MANHATTAN IN TERMS OF SAFETY. THE CONSTANT ATTACKS ON THE DEMOGRAPHICS OF THE

PRESENT LOCATION IS SIMPLY UNFAIR AND BLATANTLY DISCRIMINATORY.

IN REFLECTING, I AM TOUCHED BY THE FORESIGHT OF THE BENEFACTORS IN CHOOSING THE PRESENT LOCATION FOR THE COLLECTIONS. DURING THE HEIGHT OF ITS DEVELOPMENT, HARLEM AND WASHINGTON HEIGHTS WAS THE BASE OF MANY OF AMERICA'S ETHNIC AND CULTURAL HERITAGES. AS I LOOK FORWARD TO THE REVITALIZATION OF MANY AREAS IN MY DISTRICT, I FEEL PROUD TO DEFEND IT AS A NATURAL HOME FOR SUCH CULTURAL WEALTHS AS THIS GREAT COLLECTION OF THE HERITAGE OF THE AMERICAN INDIAN.

WHILE I CONCEDE THAT THE 155TH STREET LOCATION IS NOT SUITABLE TO ALL OF THE SPACE NEEDS OF THE MUSEUM; THAT THE BUILDING IS IN NEED OF GREAT REPAIRS AND THAT ATTENDANCE HAS DECLINED IN RECENT YEARS, I TAKE PRIDE IN THE FACT THAT THE COLLECTION HAS BEEN MAINTAINED IN THE WASHINGTON HEIGHTS COMMUNITY UNTIL NOW AND I STRONGLY SUPPORT MAINTAINING THIS LOCATION AS A HOME FOR AT LEAST PART OF THIS GREAT COLLECTION.

FURTHERMORE, THERE IS COMPLETE AGREEMENT FROM ALL LEVELS OF NEW YORK STATE ELECTED OFFICIALS, FEDERAL, STATE, AND CITY THAT THE MUSEUM SHOULD REMAIN IN NEW YORK CITY. WE ARE DETERMINED TO FIGHT TO KEEP THIS WONDERFUL COLLECTION IN NEW YORK CITY.

IN REBUTTING THE MUSEUM BOARDS' ASSERTION THAT THERE IS NO SUITABLE RELOCATION SITE IN NEW YORK, LET ME STATE FOR THE RECORD WHAT I AM SURE MANY OF MY COLLEAGUES HAVE ALREADY STATED, THERE ARE MANY POSITIVE OPTIONS IN NEW YORK CITY THE FIRST OF WHICH,

DESERVING THE MOST SERIOUS CONSIDERATION, IS THE CUSTOMS HOUSE. IN THE EVENT THAT CONGRESS IS UNWILLING TO TRANSFER THE CUSTOM HOUSE TO THE MUSEUM OF THE AMERICAN INDIAN, THERE ARE SEVERAL OTHER OPTIONS THAT CAN BE MADE AVAILABLE TO THE MUSEUM.

I BELIEVE THAT NEW YORK IS MAKING A GOOD FAITH EFFORT TO ACCOMMODATE THE NEEDS OF THIS PRESTIGIOUS COLLECTION. BOTH THE CITY AND THE STATE HAVE PLEDGED FINANCIAL SUPPORT FOR THE RELOCATION OF THE MUSEUM OF THE AMERICAN INDIAN TO THE CUSTOM HOUSE. THE NEW YORK CITY COUNCIL HAS GONE ON RECORD IN SUPPORT OF THE CUSTOM HOUSE MOVE AND ALSO ADOPTED A RESOLUTION URGING THE MUSEUM BOARD TO WITHDRAW ITS COURT PETITION TO RELOCATE OUTSIDE OF NEW YORK. IT IS MY UNDERSTANDING FROM A VERY REPUTABLE SOURCE, DR. MARY SCHMIDT-CAMPBELL OF THE NEW YORK CITY DEPARTMENT OF CULTURAL AFFAIRS OFFICE, THAT THE MUSEUM COMMUNITY IN NEW YORK IS COMMITTED TO ASSISTING THE MUSEUM OF THE AMERICAN INDIAN IN MEETING ITS FINANCIAL NEEDS IN NEW YORK.

I KNOW THAT SENATOR INOUYE IS GENUINELY INTERESTED IN THE PRESERVATION OF THE COLLECTION AND THE ACCESSIBILITY OF THE COLLECTION TO ALL INTERESTED INDIVIDUALS. HOWEVER, HE SEEMS TO BE OVERLOOKING THE MOST FUNDAMENTAL ISSUE: THE TRUST. DESPITE THE TESTIMONY OF THE MUSEUM ATTORNEY, THE MUSEUM TRUST STATES THAT IT MUST REMAIN IN NEW YORK AND AS I UNDERSTAND IT, NEW YORK IS WILLING TO TAKE THIS MATTER TO THE COURTS FOR A DECISION.

I RESPECT THE DESIRES OF SENATOR INOUYE TO PLACE THE MUSEUM

OF THE AMERICAN INDIAN ON THE NATIONAL MALL. I SHARE HIS FEELINGS THAT THE HISTORY OF THE INDIGENOUS PEOPLE OF THIS CONTINENT SHOULD BE MADE AVAILABLE TO ALL AMERICANS FOR THEIR CULTURAL AND HISTORICAL FULFILLMENT. THIS CAN BE ACCOMPLISHED IF THE MOST RECENT PROPOSAL BY THE NEW YORK DELEGATION WERE GIVEN FULL AND FAIR CONSIDERATION.

THE PROPOSAL PROVIDES FOR THE MAINTENANCE OF THE MUSEUM OF THE AMERICAN INDIAN IN NEW YORK AT THE CUSTOM HOUSE AND A SATELLITE AT THE CURRENT WASHINGTON HEIGHTS LOCATION. IT ALSO SUGGEST THE ESTABLISHMENT OF THE NATIONAL MUSEUM OF THE AMERICAN INDIAN ON THE MALL AND A MEMORIAL AS PROPOSED BY SENATOR INOUYE. THE NATIONAL MUSEUM COLLECTION SHOULD BE COMPOSED FROM ARTIFACTS ALREADY OWNED BY THE SMITHSONIAN AND SHOULD BE ALLOWED LIBERAL BORROWING PRIVILEGES FROM THE HEYE COLLECTION MUSEUM OF THE AMERICAN INDIAN. THIS PROPOSAL IS FAIR. IT PROTECTS THE TRUST ESTABLISHED BY GEORGE HEYE TO KEEP THE MUSEUM IN NEW YORK AND ALSO MAKES PROVISIONS FOR THE ESTABLISHMENT OF A COLLECTION ON THE MALL.

THE NEW YORK PROPOSAL IS IN THE BEST INTEREST OF ALL PARTIES AND WOULD RESOLVE THIS MATTER WITHOUT A LENGTHY COURT BATTLE. AS IT CURRENTLY STANDS, THE FATE OF THE MUSEUM IS THREATENED BY THE POSSIBILITY OF A LONG COURT BATTLE OVER THE TERMS OF THE TRUST.

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GUY V. MOLINARI
14TH DISTRICT, NEW YORK

COMMITTEE ON PUBLIC WORKS
AND TRANSPORTATION
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November 18, 1987

The Honorable Daniel K. Inouye
Chairman
Select Committee on Indian Affairs
838 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Inouye:

I am writing as a Member from New York City and the ranking minority member of the Subcommittee on Public Buildings and Grounds of the Public Works and Transportation Committee to make you aware of my concern regarding the proposal to transfer the Custom House in lower Manhattan to the Museum of the American Indian, Heye Foundation.

First, I want to register my strong opposition to giving away the Custom House. I believe this is a serious mistake, especially in light of the fact that the Federal government has already spent over $28 million in renovation work and the Courts have begun to occupy space in the building. In addition, preparatory work has been completed on the remaining five floors so that full occupancy of the building could be achieved with approximately $16 million of work.

There is a critical need for space in lower Manhattan for a number of federal agencies. Earlier this month, the General Services Administration began advertising for 356,000 net usable square feet in lower Manhattan. We should understand that when the Federal government leases space in lower Manhattan, it pays one of the highest leasing rates in the country--$35 to $55 per square foot.

During these times of concern over Federal deficits, it makes little sense to me to lose over 200,000 square feet of Federal office space that we presently own and simultaneously go out into a very competitive market to seek to lease space.

In deference to the Congressional delegation of New York City, the Mayor, the Governor and others, I have chosen not to pursue the proposal to split the collection between New York and Washington, although I think this could have been a common sense solution to the

problem. As you know, the above parties have recently offered a proposal transferring the Custom House to the Museum of the American Indian with liberal loan privileges for a new Museum on the Mall.

Aside from points already made, the Smithsonian and others have rejected the Custom House as a suitable site for a museum. Having represented lower Manhattan in the past, I am at a loss as to why this is being proposed as an ideal location for the Museum.

If Mayor Koch, Governor Cuomo, and others still persist in using the Custom House to house the collection, the very least that we should insist on is to have an appraisal made of the Custom House building and property, and require that property of like value in a similar location be provided by the City of New York in a dollar-for-dollar exchange.

Obviously, this important collection must be preserved and should be properly displayed. I would appreciate your consideration of these points as attempts to reach a resolution of this matter continue.

Sincerely yours,

Guy V. Molinari
Member of Congress

GVM/dg

cc: Hon. Daniel Patrick Moynihan
Hon. Alfonse M. D'Amato
Hon. Ted Weiss
Hon. Charles B. Rangel
Hon. Edward I. Koch

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TESTIMONY

PRESENTED BY

STAN LUNDINE
LIEUTENANT GOVERNOR, STATE OF NEW YORK

BEFORE THE

SENATE SELECT COMMITTEE ON INDIAN AFFAIRS
OF THE UNITED STATES SENATE

NOVEMBER 18, 1987
ROOM 301
RUSSELL SENATE OFFICE BUILDING
WASHINGTON, D.C.

Senator Inouye, Members of the Committee, good afternoon.

My name is Stan Lundine. I am Lieutenant Governor of the State of New York. I am here this afternoon on behalf of Governor Cuomo to speak about the Museum of the American Indian and our position regarding the Museum's future.

Governor Cuomo regrets that he cannot be here himself this afternoon to speak directly to you on this important subject. The views I express are the Governor's and mine, and reflect our continuing interest and efforts regarding the Museum.

I would like to pause for a moment to indicate that, prior to being elected Lieutenant Governor of New York State in November of last year, I had the privilege to serve in Congress as a member of the House of Representatives for more than ten years. During this time, I became an active advocate for Indian interests, particularly for the Seneca Nation of Indians in our Congressional District.

The Museum of the American Indian is a priceless collection of approximately one million Indian artifacts from both North and South America. This collection is simply without peer, by far the most comprehensive such collection in the world. There may be no other resource in the world which can document the sociological and cultural diversity and history of the Indians

of the Western Hemisphere.

In the last twenty years, the Museum of the American Indian has undergone a protracted period of stress in efforts to locate in facilities that can accommodate the scope of its collection. Much has been written and said concerning these difficulties and various alternatives to solving them.

The Governor's primary objectives throughout this period have been to ensure that the Museum remains in New York State and to afford the collection the maximum public exposure. To that end, Governor Cuomo and Mayor Koch of New York City announced in April of 1985, over two years ago, that the State of New York and the City of New York were prepared to allocate $13 million each to help the Museum.

At that time, Governor Cuomo said, "the Museum of the American Indian is an irreplaceable treasure. It would be a tremendous cultural loss to our City and State if the Museum moved....Both Mayor Koch and myself are committed to do all we can to help keep the Museum here in New York." The Governor's statement and commitment are evidence of his strong support for the Museum.

Over the last few years, there have been efforts to move the Museum from New York. New York State Attorney General Robert Abrams and Governor Cuomo have opposed such moves.

We oppose moving the Museum from New York on the basis of principle, and not just parochial interest.

First, we have a legal obligation to abide by the Heye trust. And, in a larger sense, we have an obligation to respect the wishes of private donors everywhere, whose generosity is responsible for the very existence of our nation's museums.

But even more importantly, it is in the national interest to keep the Museum in New York City -- a place which receives millions of tourists every year including over two and one half million overseas visitors. New York is an international center of museums, scholarship, and culture.

You, Senator Inouye, have done a great deal to focus attention on the Museum of the American Indian and its world famous collection. New York State's elected officials agree with you that more can be done to promote the Museum and make it available to the public. We believe that the heritage of our Native Americans as assembled in the artifacts of the Museum should be cared for and accessible, all of which can and should be done in conformity with the Heye trust. That is why New York State's elected officials sent a joint letter to you just a few weeks ago outlining their proposal for the Museum. The elements of the proposal, as you know, are:

1) keep the Museum of the American Indian in New York City,

2) transfer the Custom House to the Museum,

3) proceed with your proposal, Senator Inouye, to establish a National Museum of the American Indian on the Mall, along with a memorial, and

4) enable the new National Museum to have liberal borrowing privileges from the Heye collection in New York.

As Governor Cuomo, Attorney General Abrams, Mayor Koch, Senator Moynihan, Senator D'Amato, Congressman Rangel and Congressman Weiss noted in their letter to you, " we believe this proposal to be consistent with the terms of the Heye trust." The letter also pointed out the following about the proposal:

.That with speedy passage of this legislation we can all avoid lengthy litigation regarding the trust that would only further endanger the preservation of the collection,

.That the proposal permits recognition of the national Indian community in our nation's Capital, and

.That with the Custom House in lower Manhattan at a crossroads of tourism of the Statue of Liberty and other world famous attractions, and a new National Museum in Washington, we will be able to bring our Native American heritage to the widest possible number of people.

Senator Inouye and members of this Committee, you are in a position to bring this long-standing matter closer to resolution. With your efforts to highlight the Museum's difficulties and solve them, you have already shown great leadership. As we now deal with the issues remaining before us, I know that New York State's elected officials want to work with you to accomplish the goal we all share in common -- the preservation and sharing of our rich and varied Native American heritage.

Thank you.

TESTIMONY OF ATTORNEY GENERAL ROBERT ABRAMS ON THE MUSEUM OF THE AMERICAN INDIAN BEFORE THE COMMITTEE ON RULES AND ADMINISTRATION AND THE SELECT COMMITTEE ON INDIAN AFFAIRS OF THE UNITED STATES SENATE

Washington, D.C.

NOVEMBER 18, 1987

I welcome the opportunity to speak before the Select Committee on the proposed takeover of the Museum of the American Indian by the Smithsonian Institution. Senate Bills 1722 and 1723 would transfer the Heye collection to the Smithsonian, establish a National Museum of The American Indian, a memorial and interment site for Indian remains, and disperse the collection among a series of regional museums around the country.

All of us are concerned with the future of the Museum and the collection, a singular national treasure. We appreciate Congress'

desire to establish a fitting tribute to the Native American heritage in our Capital.

But the Heye collection was entrusted by the donor to the Museum of the American Indian, a charitable institution established in, and administered under, the laws of New York State. As Attorney General, I have a statutory obligation to oversee the charitable institutions of the State. The law requires the Attorney General to be vigilant in enforcing the restrictions donors place on their charitable gifts. It requires the Attorney General to ensure that the trustees empowered to administer philanthropic gifts devote the trust's assets

to the accomplishment of the particular purposes ordained by the donor.

This principle is grounded in sound public policy. Trust restrictions often represent the deeply held convictions that motivate a donor to transfer private wealth to the public domain for universal benefit. The guarantee that such restrictions will be enforced -- even long after the donor's death -- encourages charitable giving.

Only the courts of New York may modify the trust should a change in circumstances make it <u>impossible or impracticable</u> to carry out the original intentions of the donor.

I understand that the Museum of the American Indian's attorney suggested to this Committee last week that maintaining the Museum in New York was not a requirement of the Trust Indenture that created the Museum. That is not the case. A critical purpose of the Trust was to maintain the Museum in New York. George Gustav Heye, the Museum's founder and a lifelong New Yorker, envisioned a New York museum. In 1916, Dr. Heye placed his collection of Indian art and artifacts, as well as what was then a huge sum for its maintenance, in a trust whose purpose was:

"To promote the public welfare by

actively advancing learning and providing means for encouraging and carrying on [specified] work within the State of New York..."

The Indenture also provides for the administration of the Trust in New York, according to the laws of New York State.

And since its creation in 1916, the Museum has operated three facilities in New York City, pursuant to the terms of the trust: An exhibition space in Manhattan, a research and storage facility in the Bronx and a library also in the Bronx.

Moreover, the trust contemplates that one museum will house, protect, and

administer the vast collection of art and artifacts collected by George Heye. Heye clearly opposed the dispersal of the collection, or he would have divided it among various institutions.

According to the Museum officers and executive director, the Museum has an urgent need for new quarters. Their eight-year search for a new home has been unsuccessful. Unfortunately, in my view, they have concentrated their efforts on removing the Museum and the collection outside the State of New York, a quest upon which they are not legally empowered to embark.

The bills before the Select Committee today would transfer ownership of the entire collection to the Smithsonian, leaving only a satellite museum at the Custom House in New York City. They provide for appointment of the Museum's Trustees by the Smithsonian's Board of Regents. The Museum Board's role would thenceforth be limited to overseeing disposition of the collection. The Regents of the Smithsonian would exercise budgetary and fundraising authority, would select the Museum's director, and determine the director's compensation.

S. 1723 authorizes the Smithsonian's Board of Regents, at the time it acquires the

Museum, to break up the collection by dividing it among the Washington museum, the Custom House, and six regional exhibition facilities.

Each of these proposals violates the terms of the trust which created the Museum of the American Indian. As Attorney General, I am obligated to oppose them here, and, if necessary, in Court.

Relocation of the Museum outside the State would plainly violate the terms of the Trust under which the Museum was created in 1916. Because there are sites where the Museum could flourish within New York State, and arrangements under which its finances

could be assured, it is neither impossible nor impracticable for the Museum to stay in New York, a finding the State Supreme Court must make before it can hold that the Trust may be modified to allow the Museum's departure and the collection's dispersal.

As I have already argued in court, and will continue to argue, the State court cannot authorize such a move out of state, so long as it remains possible and practicable to fulfill the terms of the trust in New York. The federal legislation being considered here today does not alter this fact.

Nor does the Trust permit the Museum to be split up into multiple museums. There are

no facts to suggest that management and maintenance of the collection in one museum is impossible or impracticable. In fact, dividing the collection and administering as many as eight museums would be enormously cumbersome and difficult.

The Museum cannot make the requisite legal showing necessary to vary the trust terms. The fact is that it is both possible and practicable for the entire Museum to remain in New York.

Contrary to testimony received by this Committee last week, there has been no ruling on whether the Museum may leave New York.

Judge Stecher did make a preliminary ruling, denying the motion to dismiss the Museum's petition on July 9, 1986. For purposes of a motion to dismiss, a court must accept the allegations of the petition as true. On that basis, Judge Stecher found that it would have been inappropriate to throw the Museum out of court without a hearing.

The Museum's attorney, in his testimony last Thursday, cited the Judge's opinion to the effect that "it must be as obvious to the litigants as it is to the court that it was not the intention of the settlor to allow his museum to perish and its collections [to] be

dispersed rather than be moved to another state. . ."

Omitted last week from testimony, however, was the second half of Judge Stecher's sentence. Following a semicolon, he wrote,

> but as in the case of a personal memorial, we should try to honor the settlor's desire to maintain his collections in New York and preserve its independendence . . . provided we keep firmly in mind his dominant 'objects' and 'purposes' . . ..

> There is no question, [the Judge opined at an earlier point] that Heye indentified New York City as the site for his collections and the Secretary of State as the public overseer of the fulfillment of his gift. Similarly, there is abundant evidence that Heye desired his museum to be independent, particularly of the American Museum of Natural History, and exist as a memorial to his efforts.

Since Judge Stecher's decision, and since the introduction of S. 1722 and S.

1723, there has emerged a new and exciting proposal for the future of the Museum that has the support of Senators Moynihan and D'Amato, Representatives Rangel and Weiss, Governor Cuomo, and Mayor Koch. In my opinion, this proposal would be consistent with the terms of the Heye trust. It would:

1. Maintain the Museum at the Custom House in New York, with its own Board of Trustees, and continue a satellite museum at its present facility at Audubon Terrace, in a neighborhood orginally selected by the donor and which should not be abandoned by the Trustees.

2. Transfer the Custom House to the Museum, pursuant to legislation introduced by Senator Moynihan (S.1246) and Rep. Weiss (H.R.3413);

3. Establish, in addition, the National Museum of the American Indian on the Mall, the memorial and a site for the interment of Indian remains; and

4. Give the new National Museum liberal borrowing privileges from the Heye collection in New York. Additional provisions for traveling exhibits to other museums could be approved by the Museum of the American Indian Board.

This new proposal accomplishes the objectives of S.B. 1722 and 1723, but in a manner consistent with George Heye's intent. It would allow the Museum to relocate to the Custom House, a goal the Museum's trustees have pursued for many years. The proposal would make the Museum's collection more accessible to the American public. Taken together, the Custom House site in lower Manhattan and the Mall in Washington will provide for the public an unprecedented opportunity to view this extraordinary collection.

New York's leaders have worked hard to provide a home for the Museum within New York

State. New York City and New York State have each pledged gifts of $13 million for the Custom House project, providing $26 million of the estimated $35 million necessary for conversion of the Custom House. The City has pledged to pay 25% of the Museum's annual operating costs, if the move is made. These represent major and unusual commitments.

Once H. Ross Perot had withdrawn his offer to relocate the Museum to Texas, I asked the Court to dismiss the Trustees' petition for leave to move there. The Trustees then moved for leave to "merge" with the Smithsonian. I have filed my objections to that motion as well.

It is my view that the Trustees' dogged pursuit of the Smithsonian takeover and other out-of-state possibilities is at odds with their legal obligation to maintain the Museum in New York.

I believe that had the Trustees cooperated earlier with New York officials in solving the Museum's current problems, those problems would have been solved long ago. I hope that we can now resolve the issue of a new home for the Museum in a way that ensures the Museum's continued operation in New York.

All concerned appreciate Congress's interest in the Museum and its desire to make this unique collection accessible to the

American public. Senator Inouye deserves our gratitude for his efforts to find a solution to the problems facing the Museum. The Museum is a national treasure, and deserves to be shared by all citizens. All Americans should have the opportunity to learn of the cultural legacy and historic grandeur of the American Indian people.

But Congress' goals of preserving this extraordinary collection and making it accessible to the public can be accomplished without flouting George Heye's intentions.

It is a disturbing notion that the Congress should enrich the cultural patrimony

of the Capital by taking possession of national treasures in other cities and arranging for their transfer inside the Beltway. Presumably the Philadelphia Art Museum, the Presidential Libraries, the Chicago Museum of Science and Industry, the Baseball Hall of Fame at Cooperstown, the Alamo museum, the Getty Museum and San Simeon in California enrich America's cultural life, despite their continued location on their original sites.

Maintaining the Museum in New York will allow Americans and tourists from

throughout the world to share its treasures and to enrich their appreciation of the cultural complexity and richness of those who first inhabited the Americas.

It is my obligation to see that the Museum continues to function in New York, as its donor intended. I remain confident that a new home for the Museum -- acceptable under the law -- will be found.

Thank you.

JOINT HEARING OF THE SENATE
SELECT COMMITTEE ON INDIAN AFFAIRS and
COMMITTEE ON RULES AND ADMINISTRATION

MUSEUM OF THE AMERICAN INDIAN, HEYE FOUNDATION

NOVEMBER 18, 1987
RUSSELL SENATE OFFICE BUILDING, ROOM 301

REMARKS OF: EDWARD I. KOCH
MAYOR OF THE CITY OF NEW YORK

REMARKS OF EDWARD I. KOCH

MAYOR OF THE CITY OF NEW YORK

BEFORE THE SENATE SELECT COMMITTEE ON INDIAN AFFAIRS

WASHINGTON, D.C., NOVEMBER 18, 1987

Thank you for inviting me to share with you my thoughts on the Museum of the American Indian's (MAI) future. On behalf of all New Yorkers, I want to convey my pride in serving as the home of this vibrant, comprehensive collection of North and South American Indian treasures. We firmly believe in this institution's ability to serve as a truly extraordinary center for the display, interpretation and nurturing of the living cultures its collection embraces.

For several years now, the City of New York has been working to assist this museum in its search for a new home. Two main issues have emerged in shaping these efforts: what is best for the MAI's collection, and how will its expanded operations be funded. I believe that the terms of the "New York Plan," as laid out in a letter to you from me and a number of my colleagues here, constitutes the most constructive, beneficial solution to these concerns. The terms of this proposal are as follows:

o Maintain the MAI in New York City, with its own board of trustees, and continue a museum at Audubon Terrace.

o Proceed with the bill to transfer the Custom House to the MAI, with the caveat that the Bankruptcy Courts can remain until the new Foley Square Annex is completed.

o Proceed with your initiative to establish the National Museum of the American Indian on the Mall to house the Smithsonian's collection, and the memorial and interment of Indian remains.

o Add language to the Moynihan-Weiss bills to give the new National Museum of the American Indian on the Mall liberal borrowing privileges from the Heye collection in New York. Additional provisions for traveling exhibits to other museums as suggested by Senator Bingaman could be approved by the Heye board.

In the course of our involvement with this matter, a number of options have been presented, and more recently, the MAI has indicated that the federally-owned U.S. Custom House is its first choice site in New York. In pursuing this location on their behalf, the City requested information from the Museum concerning their operating and administrative plans for that building. Upon receipt of that material, I approached David Rockefeller to ask for his generous assistance in funding an independent consultancy that would reconcile and augment various facts and figures, and provide us with a detailed blueprint for moving the MAI to the Custom House. I am told that this study should be completed within a month.

The result of these concerted efforts should be to provide for the expeditious move of the collection to a more spacious exhibition site, thereby safeguarding its treasures from the current dangers of cramped storage and overcrowded display. We understand from the Smithsonian

that, at the very earliest, no new facility would be completed on the Mall until 1992. The Custom House should be able to house the collection much sooner, allowing for a gradual incorporation of exhibits and increase in staff. The close proximity of the Statue of Liberty and the planned Holocaust Museum would make this site particularly popular and provocative for the dynamic exhibitions and ongoing traditions championed by the MAI. Its inaugural years would be enormously enhanced by events surrounding the celebration of the 1992 Sesquecentennial of Columbus' voyage, for which New York has been chosen to serve as our nation's host city. As the Museum itself has pointed out, time is of the essence in salvaging the collection from its present circumstances. The Custom House stands as the fastest solution to this urgent need.

How will the MAI be supported at this site? In addition to its national audience, the City, State and citizens of New York — where Gustav Heye specifically mandated that his collection be displayed — are ready with substantial financial commitments. The State and City have already pledged $13 million each in capital support to renovate the Custom House. In addition to this $26 million, I have pledged to obtain an annual allocation in the City's expense budget to cover 25% of the MAI's operating expenses, projected between $5 - 8 million a year at this site. The State is exploring the possibility of an equal commitment. Further, the Governor and Senators Moynihan and D'Amato have joined with me and with David Rockefeller in pledging to assist the Museum in its other fundraising endeavors.

In receiving annual operating monies from the City, the MAI would join 32 cultural organizations of international repute in recieving significant financial and administrative support from the City, through the Department of Cultural Affairs. This would allow the MAI to continue functioning under its trust-mandated organizational structure, while ensuring the Museum's longevity and vitality through cogent and concerned involvement by the City. Headquartered in New York, the MAI could provide substantial resouces to an exhibition site in Washington -- and other areas around the country -- and avoid the lengthy litigation involved in removing the Heye Foundation's core collection from this state.

The New York Plan offers the most immediate relief for the collection via the Custom House, as well as the opportunity to have it displayed to the maximum number of people, here and in Washington. It also prevents the dangerous perception of a federal raid on regional cultural resources, and exhaustive litigation defending the original trust. New York has long been fertile ground for some of the most dynamic and valuable aspects of our culture and heritage. The MAI is part of our legacy from the past and to the future. By adopting the New York Plan, this unparallelled resource can flourish here and in our nation's capital, to honor our first citizens and benefit all Americans.

News/ MANHATTAN BOROUGH PRESIDENT
DAVID DINKINS

TESTIMONY OF

DAVID N. DINKINS

MANHATTAN BOROUGH PRESIDENT

regarding

THE MUSEUM OF THE AMERICAN INDIAN

before the

COMMITTEE ON INDIAN AFFAIRS

WEDNESDAY, NOVEMBER 18, 1987

MUNICIPAL BUILDING, 1 CENTRE ST., ROOM 2041, NEW YORK, N.Y. 10007

83-404 - 88 - 6

Senator Inouye, colleagues, and friends, I thank you for allowing me the opportunity to testify about a national treasure that resides in Manhattan - the Museum of the American Indian. It is not necessary for me to elaborate on the quality and reputation of the collection as I know that we are here today specifically because we recognize that fact.

During my time in office, I have been listening, talking, and meeting with representatives of the Museum of the American Indian, and with uptown and downtown community leaders in Manhattan. In addition, I have received a large volume of mail on this issue from my constituents, and have had a working relationship with the staff of the Mayor and of other officials. I initiated a dialogue with local New York City leaders, including the Manhattan members of Congress. As a result of this outreach, we now all share a unified point of view with respect to the Museum's future: that the U.S. Custom House become the primary location for the collection created by the Heye Trust.

Since there is a certain amount of urgency in the need for the collection to be properly preserved and exhibited, it seems to me unwise to engage the State of New York and the Museum of the American Indian in what would surely be a protracted legal battle over MAI's option to move.

The proposal that was presented to you by Senators Moynihan and D'Amato, Representatives Rangel and Weiss, Governor Cuomo and Mayor Koch, is perhaps the best of all possible worlds: good for the Museum of the American Indian, and good for those who would use it. It would establish on the mall a national memorial and museum dedicated to the American Indian that will include materials provided through a loan arrangement with the Heye Foundation. It would make the Old U.S. Custom House, a central, significant site in Manhattan, available to house the collection now based in northern Manhattan. This will allow researchers and scholars access in one city to the most valuable combination of significant collections: those of the Museum of the American Indian, and the American Museum of Natural History. And most importantly, it would put the MAI in an excellent position to increase dramatically their audience, and not coincidentally, their fund raising potential.

I believe that the Museum's proposed location at Bowling Green in downtown Manhattan will become the keystone in a lower Manhattan cultural structure, linking South Street Seaport, the embarkation point for the Statue of Liberty, the restored Battery Maritime Building, the proposed Biosphere and the Holocaust Museum at Battery Park City. The mutual benefit and economic spin-off that this concentration of cultural activity will generate will be substantial. New York City's commitment of capital funds and annual program support are welcome and will be essential to the Museum's financial stability.

I would hope that a continued presence of this museum at its Audubon Terrace site can be incorporated as a component of the new plan.

Senator Inouye, I admire your efforts to provide a solution to this seemingly insoluble problem. The prestige and accessibility that association with the Smithsonian would bring to the MAI would indeed be an honor to the Museum. At the same time, the proposal now before you from the distinguished group of New York representatives, will go far to answer the concerns of those of us who cannot in all conscience allow the future of the MAI to be separated from the future of New York. I urge you to consider this proposal positively and I look forward to remaining involved in future negotiations concerning this issue. We are grateful for your leadership.

P 121

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TESTIMONY OF THE YAKIMA INDIAN NATION

ON

S. 1722 AND S. 1723

THE NATIONAL AMERICAN INDIAN MUSEUM AND MEMORIAL ACT

NOVEMBER 18, 1987

TESTIMONY OF THE YAKIMA INDIAN NATION ON S. 1722

Mr. Chairman, Mr. Vice-Chairman, Committee Members, my name is Levi George, I am a member of the Yakima Tribal Council and a religious leader of the Yakima Indian Nation. I am accompanied by Lonnie Selam, also a Washat religious leader on our reservation. Lonnie also serves as the Cultural Resource Specialist for our tribe. In our capacities as religious leaders we are called on to carry out many services, prayers and burials of our people in the traditional manner. We therefore have a strong interest in this legislation.

As you know from your trips to the northwest and to the Yakima Indian Nation, our reservation is located on over 1.3 million acres of land in south central Washington state. Our original lands, most of which were ceded in the Treaty of 1855 at Walla Walla, included over 10 million acres comprising most of central Washington. The fourteen tribes and bands of Indians that now comprise the Yakima Nation have a rich culture and history that must be not only protected, but enhanced. For these and other reasons we want to extend our sincere appreciation to you Senator Inouye for taking the lead in introducing this most progressive legislation and to Senators Evans, Adams and the many other distinguished Senators who have co-sponsored it.

To say that legislation creating a museum honoring the American Indians is overdue is a profound understatement. This was our country and it is inconceivable that there is no appropriate tribute to that fact. We agree with Senator Inouye that it is imperative that the United States create such an institution and it would be appropriate to pass this legislation in the year of the 200th anniversary of the signing of the Constitution, a document modeled upon the governmental practices of the Iroquois Confederacy.

The creation of such a museum is an idea whose time has come. This museum will acknowledge and recognize the role that the Indian people have played in the development of the United States and will appropriately honor our contributions to this great country. At the same time the memorial proposed in section II should serve as a somber reminder to a chapter in this country's history that must not be forgotten and of the treatment of aboriginal people by a more dominant society. Perhaps it will serve as a lesson that will help the aboriginal people in other third and fourth world developing countries before the same mistakes and actions are taken against them as were perpetuated against my people.

generally not able to afford travel to Washington, D.C. and as a result most will never see the museum. The Yakima Indian Nation is the proud operator and curator of our own on-reservation museum and we see this bill as affording an opportunity to have our museum establish an official relationship with the Smithsonian that would be to both entities mutual benefit. We propose that the bill be amended to establish a certification process whereby the Smithsonian Institution would examine and, through established criteria, certify applying tribal museums such as ours to become affiliated in a satellite like capacity with the Smithsonian. This could also authorize certified tribal museums to secure available funding from the Smithsonian and would allow for and encourage the loaning of exhibits between certified museums and the Smithsonian. This would greatly enhance our people's access to exhibits and would make the history and knowledge identified in Section 102 truly available to a large number of Indian and non-Indian people. We feel that a certification process would ensure the Smithsonian that they are dealing with reputable and well run Indian museums. It would also be of great benefit and honor to a museum such as ours to be certified by the Smithsonian.

We are aware of and saddened by the position of certain people representing the city of New York in regard to the Heye Foundation's vast collection at the Museum of the American Indian in New York. The creation of the proposed Indian museum in Washington, DC is not solely for the purpose of bringing the artifacts in New York to DC but is rather a multi-faceted approach as described in S.1722. However, the New York collection is, by many fold, the largest collection of Indian art and artifacts in the world. The creation of a museum in D.C. without access to the educational aspects of the Heye collection would be a great shame. This collection should be seen by millions of people, including Indians who travel to Washington, D.C. frequently, and should be properly displayed as it is a federal treasure. This can only happen if the collection is transferred to the jurisdiction of the Smithsonian Institution under a proposal such as that contained in this legislation.

Two aspects of the arguments of those people representing New York surprise us. The first is the rather recent and sudden interest in the Heye collection. The vast majority of this priceless and unequaled collection has sat in warehouses in New York, some in corrugated boxes, other pieces covered with plastic

We strongly support title I of S.1722 creating the national Museum of the American Indian within the Smithsonian Institution. Not only would the country benefit by viewing the artifacts, and the history, art and culture of the Indian but the public would gain great knowledge in learning of the many things we have given this country. It is therefore important to both the Indian people and non-Indian public to have such a contemporary learning facility established particularly in that the existing exhibits are wholly inadequate. We are excited about he concept of this facility being a "living" memorial providing for traveling exhibitions, a stage for the performing arts and the study of Indians language, literature history, art and life. We think that in examining and in displaying Indian history that the bill should be amended to direct that a specific part of the museum be established to explain to the public what Indian treaties are, why they were signed and what rights the tribes reserved to themselves in these treaties. When the bill talks about creating a living memorial we think of our treaty in that it is a living document, every bit as applicable to our rights today as it was 132 years ago when our forefathers signed it. If the proposed museum could help to educate the public about this issue, it will serve an important and useful function.

Additionally, the Indian people would benefit by such a museum. We are striving to instill in our people a knowledge of the history and culture of the Yakima Indians. We still have sources of teaching our culture and history, most notably from our elders, from which our young people can learn of our traditions but in some instances important items have been taken and artifacts removed from our land. The proper display and cataloging of such objects combined with access to volumes of written material on our culture and history would be beneficial to our people as would access to similar knowledge and their artifacts benefit other tribes.

It is in this regard that we would like to propose an amendment to the bill. Section 102 (7) finds that the creation of such a museum would "...give all Americans the opportunity to learn of the cultural legacy and historic grandeur of the American Indian people" and provide "curation and other learning opportunities for American Indian people;". These points are true but only if the Indian or non-Indian public in question has the financial resources to travel to Washington, D.C. As the Committee is aware, our tribal members and much of the population at large are

and much simply on shelves unseen, uncatalogued and unprotected. If these people who oppose S.1722 are so enamored with this collection why has the city not come to he aid of the museum before now? Why only after there was a proposal to transfer some of the pieces out of NYC was there a sudden interest in the collection?

The second thing that bothers us is the appearance of unrivaled greed by certain New Yorkers. The Heye collection contains over one million pieces. It is a collection so vast that it could never be fully displayed in even the largest new museum. There are more than enough pieces to have a large and impressive collection in New York, the full museum as proposed in Washington, DC and enough to share with a large number of other museums. If the Heye collection consisted of a few hundred pieces of one-of-a kind artifacts, that were properly displayed and accessible to the public, it is possible to appreciate New York's desire to hold onto it. But the complete opposite is true. Where most museums would be proud to have one or two ceremonial buffalo robes, the Heye collection owns hundreds; where most museums would be thrilled to exhibit one or two authentic peace pipes, the New York museum owns 400. They have over 100 Pomo Indian baskets and a collection of pottery so large it has not been fully catalogued. Clearly the most appropriate jurisdiction to oversee such a national treasure and under which such a collection can be properly displayed and cared for is the Smithsonian. The bill contains a specific provision in 103 (c) (4) authorizing the construction or acquisition of a permanent exhibition facility in city of New York at which a large part of this collection would be housed. Access to the resources of the Smithsonian would clearly improve the display and care of those artifacts remaining in NYC. This is much more than New York is doing now and would be paid for by the federal government, yet, for some reason they are not satisfied. For the good of the Indian people and the public at large we hope that New York will reconsider its ethnocentric and unreasonable position.

I will ask Mr. Selam to address Title II of the bill.

Mr. Chairman, we are also very appreciative of the intent and sensitivity demonstrated by section II of the bill. That there exists in the attic of the Smithsonian the skeletal remains of 19,000 Indians is a national disgrace. No other group of people but Indians could be treated in such a manner. We only ask you

to imagine the rightful furor that would befall this city if the Smithsonian announced that it had the remains of 19,000 Jews in boxes in its attic. There would be legislation enacted returning those remains to their descendants or to Israel with such speed that it would make passage of the last Continuing Resolution look slow. We are disappointed in the archeological experts who insist these skeletons must remain where they are for study purposes. We think you have studied our ancestors bones more than enough. (It is surprising that more pictures of Indians involved in traditional practices don't show them with calipers permanently attached to their foreheads!). We strongly agree that every effort should be made to identify by tribe and location the skeletal remains in the Smithsonian. Our people believed that it is best for the earth spirit for a skeleton that has been dug up to be reburied is as close a spot as is possible to the original burial place. The prayers that were said over the body stay with it in that part of the earth and can not simply be transferred from one part of the country to another.

We are concerned that the legislation does not afford the Indian people a role in the effort to identify these remains or any sort of a time-line for returning them to their descendants or tribes. The legislation says they should be identified in five years but when will the identified bones actually be returned by the Smithsonian? Some sort of a procedure should be established to assure Indian involvement in the process of identifying the remains. In the process involved in identifying remains Indian people may be helpful to the Smithsonian particularly if the remains have artifacts that were taken with them.

It is going to be a very difficult and delicate task to determine how to deal with the skeletal remains that can not be identified. There is no more sensitive area for the Yakima's than is the proper burial of our people. We have real concerns about a mass grave that seems to be envisioned in this bill because many of our people do not believe in mixing the spirits in one grave. We believe they may fight each other and we do not bury bodies together. Many of our people also do not believe in placing cement ever the tops of graves as this may result in the life spirit and the earth spirit not being able to become one when the time comes. Some of our people will place markers off to one side of a grave instead of directly over the top of it so as not to interfere with this event. We understand that a number

of ideas are under consideration for dealing with this sensitive subject and we can only offer you our counsel and advice as to how the Yakima people would recommend that you proceed. We can not speak for any other tribes on this matter as religious practices may differ from one reservation to the next. However, it is our strong feeling that Indian people must be buried in the earth and not in concrete or surrounded by any commercial trappings. In reality, this can only be accomplished by having the skeletal remains individually buried in a cemetery. We would therefore propose that these remains be buried outside of the museum and that an appropriate memorial to the Indians still be the centerpiece of the museum.

In regard to S. 1723, we do support Sentor Bingaman's concept of regional museums affiliated with the proposed Washington, D.C. museum but we feel it should be done in a manner that would compliment the suggested amendment in our testimony relative to tribal museums. It would seem appropriate to merge S. 1723 with S. 1722 and our proposal to include certified Indian museums.

We do extend our hand to you in dealing with this subject and we extend our hearts to you in appreciation for all that you have done. We hope that you will stay on as Chairman of this Committee in the next Congress even if you do become Majority Leader. No Chairman has ever showed more compassion for the Indian people than we have seen from you over the past year. As for you Senator Evans, I can tell you that there was no more disappointed place in the state than the Yakima reservation the day of your announcement not to seek reelection. Over the past three decades we have never had a better friend or more understanding advocate. Now that you will have more time on your hands we hope that you will come to our reservation and at least take a crack at catching those salmon that you have worked so hard and successfully to restore.

NATIONAL CONGRESS OF AMERICAN INDIANS

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STATEMENT IN SUPPORT OF A NATIONAL MUSEUM OF THE AMERICAN INDIAN ON THE MALL, PRESENTED BY JOHN F. GONZALES, PRESIDENT, AND W. ROGER BUFFALOHEAD, CULTURAL CONCERNS COMMISSIONER, NATIONAL CONGRESS OF AMERICAN INDIANS, BEFORE THE UNITED STATES SENATE COMMITTEES ON INDIAN AFFAIRS AND RULES AND ADMINISTRATION, NOVEMBER 18, 1987, WASHINGTON, D.C.

On behalf of the membership of the National Congress of American Indians (NCAI), we extend greetings to the Chairmen and Members of the Committees and express appreciation for your time and attention to a goal we share: establishment of a National Museum of the American Indian on the Mall in Washington, D.C.

In June of this year, the NCAI Cultural Concerns Commission adopted a resolution calling for legislation to establish such a museum and, in September of this year, the 44th Annual NCAI Convention endorsed this resolution, a copy of which is attached, and supported the efforts of Chairman Inouye in this regard. We are pleased that the Chairman and many of his colleagues introduced S. 1722, which we support today. Our views are presented on behalf of NCAI and the All Indian Pueblo Council, the American Indian Learning and Resource Center of the University of Minnesota and the Morning Star Foundation.

This legislation represents a long overdue recognition of American Indian nations, both past and present, and provides an opportunity to bring federal collection and exhibition policies into the modern era. This can only be achieved by a predominance of Indian and Native people in the governance of the national museum and a full presentation of Indian and Native world views in the scope, display and placement of the collections. Key to this is the overriding issue of repatriation of Indian and Native sacred objects and the national treasures of our peoples, and the return and reburial of Indian and Native human remains.

We urge the Committees to continue to assert the linkage in S. 1722 between placement of the collection of the Museum of the American Indian under the aegis of the Smithsonian Institution and the return to tribes and reinterment of Indian and Native human remains. The Smithsonian should not be entrusted with a collection of this unequalled scope and importance without sufficient safeguards to assure an end to its current discriminatory and disrespectful practices.

S. 1722 is considered by many non-Indian people as a bill to resolve the need for the Museum of the American Indian to find a home for its collection and to satisfy the desire of the Smithsonian Institution to acquire that collection. The New York politicians appear to view the bill as a contest between New York and Washington, D.C., and few have

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considered what the collection represents to Indian people and what the outcome of this matter will mean to us.

We view the collections of the Museum in New York and the Smithsonian as being held in trust for the Indian and Native peoples. For those Indian nations who have passed from this world, these collections are the evidence of their existence. We can only respect their memory, grieve for their fate and attempt to learn from their lives and demise. It should be a federal obligation to care for these Indian national treasures accordingly, and to lay to rest the remains of their people.

We welcome the prospect of the merger of the great number of items in the two collections which were acquired legitimately and the opportunity to have these items rotated in satellite museums throughout Indian country and in such great American cities as New York City. There are enough items in this category of the collections to provide hundreds of locations and generations of people fascinating exposure to the life ways and world views of Indian and Native peoples. If appropriately designed under the guidance of Indian and Native people, these items and their modern counterparts can be displayed and demonstrated in such a way as to emphasize the art and ways of living people and to teach the world that we have a future, as well as a past.

There are items in both collections which were not acquired legitimately, which represent the cultural and historical heritage of living Indian and Native peoples and which must become the subject of dialogue regarding their return and care and treatment. These sacred and historical items are the national treasures of the Indian and Native nations today and must be recognized as such. Items in this category could be regained by the Indian and Native nations through the courts, for it is virtually impossible for the Museum of the American Indian or the Smithsonian Institution to hold a legal chain of title to these items. We urge the Committees to require the initiation of dialogue, without precluding our due process rights, and to require that each Indian and Native nation be provided with a complete inventory of all items relative to their traditions and history. In this way, Congress can set a new museum ethic and can enable Indian and Native peoples to make informed decisions regarding repatriation, access, loan, care and treatment requests.

The importance of Indian and Native people - including leaders, scholars and doctors of wisdom - in the governance

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and implementation of all aspects of the policies and practices touching these holdings cannot be overestimated. We observe that the Smithsonian Institution has no Indian or Native people in policy-making positions and precious few in its employ. We urge the Committees to assure that the Museum of the American Indian Trustees have a genuine governance role, for this will assure that at least some Indian people will have a say in the new museum's policies. We note that eight of the Trustees are Indian, including two of our leading scholars, Vine Deloria, Jr. (Standing Rock Sioux), and N. Scott Momaday (Kiowa), as well as NCAI Executive Director Suzan Shown Harjo (Cheyenne & Creek). We urge the Committees to require half of the post-transfer new board for the national museum to be Indian and Native people. We also urge the Committees to adopt the recommendation made by Senator Stevens last week that the Indian preference laws be applied to the National Museum of the American Indian. This, we believe, would further assure that Indian and Native views would be brought to the fore by qualified citizens of their Indian and Native nations.

At present, the Smithsonian Institution holds at least 19,000 remains of Indian and Native people of North America. By its own count, these remains comprise 54.4% of the Smithsonian "specimen" collection, as compared with 5.1% of remains of Black people, 20% of remains of White people and 20.6% of "others." It is not known how many remains of the 7,033 "others" are of Indian people of Central and South America. We also do not know how many human remains were transferred, along with other poorly documented collections transactions, to the Peabody Institute and Harvard University, among others, because the Smithsonian records are minimal. Smithsonian records do indicate a holding of 246 remains of Native Hawaiian people, and it is assumed that they are in the category of "others." The Smithsonian holds 4,200 to 4,300 Indian remains from the turn-of-the-century period when the U.S. Surgeon General ordered Army officers to send him Indian skulls. Most of these were from deliberately excavated graves and not from battlefield activities. The Smithsonian claims that many of our ancestors' remains are from "pre-historic periods." For those of us with ancestors in the Smithsonian, this term itself is discriminatory, for they are from our history, not from someone else's pre-history.

We urge the Committees to require that the Smithsonian return all Indian and Native human remains to those Indian and Native nations requesting repatriation and to rebury all others in its collection. The Smithsonian claims that

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it needs a collection of human remains to study important matters that benefit living people, including us. In several meetings this year, the Smithsonian Secretary could not tell us what those studies might have been, but we note that some few were mentioned in his testimony last week. Now that these studies have been completed, we urge the Committees to require the Smithsonian to quickly conclude its tribal identifications and to report them to the tribes for their decisions regarding the disposition of their ancestors. Allowing the Smithsonian to make decisions about which of the remains are of "scientific interest" likely will result in the Institution delaying tribal identifications and reports to tribes. The Smithsonian has been working for more than seven months to identify some 40 remains for whom there are Army officers' letters identifying them by name, nation, date and location of excavation and other information. We know of no Indian people or nations contacted about these 40 remains, to date, and we might expect the Smithsonian to take an even longer time to satisfy academic curiosity when the identification requires more than reading the letters and accession records. If the Smithsonian cannot make tribal identifications, it is difficult to understand how much scientific value could be claimed and how studies could be valid.

The Smithsonian statement before these Committees last week indicated continued reluctance to return human remains to their tribes. We ask the Committees to require the Smithsonian to provide a detailed listing of the Indian and Native items and human remains it has transferred to institutions and universities and other entities, along with a narrative regarding the terms of the transfer and the basis for each transaction.

We must note for this record that the views regarding the disposition of human remains are myriad and varied among the Indian and Native nations. Some would wish to arrange for repatriation, some would not. Some would agree to continued study for a limited period of time, some would not. All would wish to have reinterment in some fashion and location take place. S. 1722 would have reinterment, unless otherwise requested for repatriation, occur on the Mall. We believe that most Indian and Native peoples would object to this. Many traditional Indian and Native people cannot even visit some parts of the Smithsonian because of the human remains there. We urge the Committees to set aside some land off the Mall for the reinterment, and to maintain the memorial and living monument as the centerpiece of the national museum. Just as the Viet Nam Memorial is a powerful statement without being a burial ground, the

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American Indian Monument can be a powerful tribute without being a mass grave.

We also note for this record that NCAI and others continue to meet with the Smithsonian Secretary in an effort to reach accord on these matters. There has been some progress. Indian skulls have been removed from display from the Smithsonian walls. Indian human remains exhibited in glass cases were to have been taken off display in July, had not been removed by August and may have been removed by now. At the same time, however, a recent annual report urges visitors to take in the skeletal displays. Although we have great differences of opinion with the Smithsonian, we do view our dialogue as progressive and are impressed with the Secretary's willingness to meet with us and enter into serious discussions on the hard questions.

In conclusion, we must again refer to the Smithsonian statement that our human remains are the archaeological resources of the United States. Under current federal law, this is technically correct. Under any standard of human rights, this is socially offensive. In order to resolve this problem, the Archaeological Resources Protection Act (ARPA) and the National Historic Preservation Act need to be amended to remove human remains, sacred objects and grave goods from the definition of "archaeological resources. While we believe that the desecration of human remains and grave goods should fall under the penalties of ARPA, we favor placing them in a category that would better reflect their sacred nature and that would not subject them to legal excavation and curation. Attached as part of this testimony is an October 19 NCAI statement submitted to the House Interior Subcommittee on General Oversight and Investigations regarding looting of Indian archaeological sites. This statement offers our views on needed changes in the law to prevent further violations of Indian and Native religious tenets and to keep additional human remains and sacred objects from federal collections.

Thank you for the opportunity to present these recommendations and comments. We look to this legislation as the basis for a great healing and the dawn of a new era in America. We are grateful to all who seriously address our concerns.

Resolution 44-87-158

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Fall 1988

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RESOLUTION SUPPORTING FEDERAL LEGISLATION TO ESTABLISH A NATIONAL MUSEUM OF THE AMERICAN INDIAN ON THE MALL IN WASHINGTON, D.C., AS A PART OF THE SMITHSONIAN INSTITUTION

Whereas, the Indian and Native governments and people gathered in Tampa, Florida, for the 44th Annual Convention of the National Congress of American Indians, in order to promote the common interests and welfare of American Indian and Alaska Native peoples; and,

Whereas, the Honorable Senator Daniel K. Inouye has declared his intention to press legislation in the United States Congress to establish a National Museum of the American Indian, as a living monument to the Indian and Native peoples, to be located on the Mall in Washington, D.C., as a part of the Smithsonian Institution; and,

Whereas, the Museum of the American Indian in New York City has been entrusted with a vast collection of Indian and Native cultural resources, which is not able to be enjoyed and respected by the Indian and Native peoples, as well as by all Americans and other persons; and,

Whereas, this collection and that of the Smithsonian Institution contain important cultural and historical evidence of vital, living cultures and traditions of the Indian and Native peoples, and should be available and accessible throughout Indian country, nationally and internationally;

Now, therefore, be it resolved that the National Congress of American Indians supports the establishment of a National Museum of the American Indian, as a living monument to and for the Indian and Native peoples, to be located on the Mall in Washington, D.C., to house the collections of the Museum of the American Indian, as well as future art, artifacts and other cultural resources of Indian and Native peoples placed in its trust; and,

Resolution 44-87-158 (continued)

Be it further resolved that the National Museum of the American Indian should be administered by the Smithsonian Institution with Indian and Native peoples, and should offer programs of education, cultural resource preservation and support to smaller Indian and Native museums and cultural centers throughout Indian country in the United States, and that planning design and program implementation should be carried out through a board, advisory commission and working groups with significant representation by Indian and Native peoples.

Adopted by the 44th Annual National Congress of American Indians Convention, September 25, 1987, Tampa, Florida.

U.S. SENATE SELECT COMMITTEE ON
INDIAN AFFAIRS

Hearing on Establishing the National
Indian Museum
(S. 1722)

Hearing on Establishing the American
Indian Regional Exhibition Facilities
(S. 1723)

TESTIMONY OF

Joel Frank, President

UNITED SOUTH AND EASTERN TRIBES, INC.

NOVEMBER 18, 1987

Washington, D.C.

Good afternoon, Mr. Chairman and Members of the Committee. I am Joel Frank, President of the United South and Eastern Tribes and the Administrator of the Seminole Tribe of Florida.

I am pleased to have this opportunity to provide you comments on S. 1722 and S. 1723.

I will begin first by stating that the United South and Eastern Tribes strongly endorses this legislation to establish the National American Indian Museum. Upon review of the proposed Bills, I wish to comment on specific items.

First, in S. 1722, under Section 102(7)(A), I believe further definition should be given for the term "Cultural Legacy." The definition should represent a true and complete meaning to bring out the significance of the material on display to enrich the American public's understanding on Indian history. It should not be just a display of objects.

Next, under Section 102(7)(B), we are pleased with the proposed creation of the museum facilities; however, I would strongly suggest that the facility should contain an area suitable for tribal religious or other ceremonial functions and designed with Indian consultation.

We also are very supportive of creating a memorial for interring and memorializing skeletal remains after the proper identity cannot be determined.

The Bill is silent on an important issue of grave concern to Indian people which is the handling and disposition of sacred and religious items.

Our first concern is that after proper identification, these items should be returned to the Indians. If agreement cannot be reached on returning sacred and religious items, then at a minimum, provisions should allow for religious and spiritual leaders to have access to the items to conduct necessary ceremonial activities.

It has been reported that religious leaders from the Seneca Tribe in New York State have, in the past, traveled to New York City to perform such ceremonies at the Heye Foundation. While this has not been acceptable to the New York Tribes, they have been left with nothing else.

We have been very concerned about an issue which is touched on partly under Section 102(4) "Library of History" and under Section 103(a)(1) "The Advancement of Study" in that Indian history has been improperly taught in our school systems. There is definitely a need to extract correct and up-to-date information to be included in the Federal, State, and Indian education systems. Text books have long presented stereo-typed and misleading images about the American Indian. While we talk about advancing and enriching the American people on this matter, the first place I could start is in our schools.

Referring to Section 105(a)(2), the term "Shall have sole authority to--" could present a problem. This seems to leave the Indian without recourse if an event were to occur where the Board of Trustees decides to sell an item which an Indian Tribe may, in fact, have been attempting to recover. I think the Bill should include language to help a Tribe in the event this situation should ever occur.

In describing the functions of the Board of Trustees, the Bill has included the term "loan." I believe the policies of the museum should be extended to loan certain displays to "Tribal Museums" as today there are many small museums in operation on the Indian Reservations.

The loan policies should certainly be placed under proper procedures to include such items as handling, security, and time frames.

I have some additional comments regarding S. 1723, under Section 2(4). Again, I want to state that when artifacts have sacred or religious purposes, they should be returned to the Indians.

We support very strongly the notion under Section 2(6) because we feel there is a need for national interpretative and educational programs.

One other thought in relation to future collections, there may be a possibility where the Indian Tribes, themselves, may want to develop display materials to provide for this new museum.

My final comment concerns the fact that both Bills are silent on the issue of acquiring artifacts and other items through desecration of Indian burial sites. There needs to be strong Federal laws to prevent disturbance of Indian burial sites with punitive provisions for those who engage in such acts.

Thank you for this opportunity to testify on these very important measures. I hope your Committee will move expeditiously for passage of S. 1722 and S. 1723.

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P 153

HAUDENOSAUNEE
ONONDAGA NATION
HEMLOCK ROAD - BOX 319-B - VIA NEDROW, NEW YORK 13120

HAUDENOSAUENEE TESTIMONY CONCERNING S.1722

PRESENTED BY OREN R. LYONS FAITHKEEPER, ONONDAGA NATION

FIRE KEEPERS OF THE HAUDENOSAUNEE ALSO KNOWN AS THE SIX NATIONS IROQUOIS CONFEDERACY

A bill to authorize the establishment of the National Museum of the American Indian, Heye Foundation within the Smithsonian Institution and to establish a memorial to the American Indian and for other reasons.

The Onondaga Nation as Firekeepers of the Haudenosaunee makes the following statement regarding the proposed move and consolidation of the Museum of the American Indian, Heye Foundation with the Smithsonian Institution, Washington, D.C.

We believe that certain legal, ethical, and moral questions must be answered prior to any removal of the Heye Foundation's collections to Washington, D.C.

The Haudenosaunee has a vested interest in the Heye Foundation collections because it contains objects and items of our national cultural treasures.

The questions revolve around the issue of repatriation of our national treasures. Specifically we address the collection of the Haudenosaunee Medicine Masks. We the Council of Chiefs claim these to be Haudenosaunee national patrimony belonging to the people of our respective Nations.

Further we claim that the possesion and display of these Medicine Masks violate the Human Rights of our people, and the group rights of those Medicine Societies and the people that they serve.

The second section for sacred objects we claim as national treasures and patimony are the beads, strings, and belts of wampum in the collection of the Heye Foundation. The possesion of such items constitutes a violation of the human rights of the people, and a violation of the group rights of the Council of Chief of the Haudenosaunee.

The possession and display of these sacared objects pose a moral and legal question to the Senate and Congress of the United States since the Bill will remand these objects into the possession of a quasi-government institution.

In our opinion the present Bill does not adequately protect the interests of American Indians and Native Alaskans, and does not take into account the challenges of the Haudenosaunee or the other Indian Nations and Tribes who may also choose to challenge.

Sections 105(a)(2)(A) and 105(a)(2)(B) talks of..."exchange or sell or otherwise dispose of property..." This could not occur if title to said property were being challenged.

Section 105(a)(2)(C) talks of acquisition with sole authority vested in the trustees of the National Museum of Indians. This brings forward the question of the make up of the Board of Trustees. It is our opinion that the new board should be predominately American Indian and Native Alaskan. This would insure proper understanding and sensitivity to the subject of aquisition. This would also pertain to Section 105(a)(2)(B) on the subject of determing policy to the method of display of artifacts. We suggest 11 of the 21 trustees be American Indian and Native Alaskan.

Section 105(B)(4) provides for an annual report to Congress. This in important because it is there that challenges will be made as to violations of national, regional or local law, international law or treaty obligations.

Section 105(C) should then be reconsidered to include a majority of American Indians and Native Alaskans. This would insure that issues of great sensitivity would lean in favor of American Indians and Native Alaskans. This would insure that collections of skeletal remains of Native people would never again occur.

The makeup of such a board of trustees should be empowered to establish research priorities in the study of American Indians.

American Indians and Native Alaskans should be able to set up and develop new areas of research that are of importance to Native peoples, and there are many.

The importance of policy for the Administration of the Museum would then be subject to oversight by American Indians and Alaska Natives.

We of course agree that the present collection of skeletal remains of American Indians be put to rest with proper ceremony.

We also agree that a memorial to American Indians is long overdue and that this is a good and proper endeavor.

As a final statement we note with irony that the cultural heritage and patrimony of the Native peoples of North America are a pawn between power sectors of the dominant American society much the same as our peoples and lands were historically a pawn between Western nations and ideologies.

We believe that the collections of the Heye Foundation in New York and the Smithsonian Institution constitute the greatest collections of Indian and Native materials in the world, enough to fill both museums ten times over.

We suggest that you consider a revolving exhibition in the new Museum of American Indians on the mall in Washington, D.C., and the new Musuem of the American Indian in the Custom House in New York. Thus serving simultaneously two great centers of humanity.

We also suggest that you find a perminent residence for the American Indian Community House in this new Museum of the American Indian in the Custom House in lower Manhattan.

The public would be served and peace between neighbors would return. But before all this, please return to us or national cultural treasures, our people still suffer.

Attached you will find our position, opinions and observations regarding repatriation of Haudenosaunee National Treasures that was presented at Columbia University in 1986.

We thank you for this rare opportunity to speak on behalf of our peoples and the captive spirits in your museums.

Oren R. Lyons
on behalf of the
Onondaga Nation and the
Haudenosaunee

COMMUNIQUE

Issued by: Haudenosaunee Grand Council of Chiefs

Onondaga Nation February 2, 1986

Regarding the cultural patrimony and national cultural treasures of the Haudneosaunee.

The Haudenosaunee (also known as the Six Nations Iroquois Confederacy), and, each member nation (Mohawk, Oneida, Onondaga, Cayuga, Seneca and Tuscarora) seperately and collectively claim all sacred objects, human remains, and traditional territory as our cultural patrimony, and our national cultural treasures.

The chiefs, clan mothers, faithkeepers, and members of our contemporary traditional medicine societies and the people that they serve are the rightful owners and authorities of our cultural patrimony and our national cultural treasures.

It is the obligation and trust responsibility of each succeeding generation of chiefs, clan mothers, faithkeepers and medicine societies of the Haudenosaunee to preserve our patrimony and national cultural treasures for the seventh generation to come.

ISSUES

DESECRATION OF GRAVES

The human remains and associated graves, sacred burial sites, and related objects from the graves of the Haudenosaunee are the responsibility of each generation of chiefs, clan mothers, and faithkeepers. Therefore, the disturbance, destruction, and theft of our patrimony is a violation of our human rights; a violation of our group rights; and a violation of the religious and spiritual welfare of our people.

WAMPUMS

The continued possession of the sacred Haudenosaunee wampums by the State of New York Museum in Albany, the Museum of the American Indian in New York City, the Smithsonian Institution in Washington, D.C., and various other private museums, historical societies, and private collections of individuals are a violation of our human rights; a violation of our group rights; a violation of our religious freedom; and an infringement on our sovereignty.

These sacred wampum belts and strings are an inalienable and imprescriptible heritage of our nations, individually and collectively, and of our people today.

MEDICINE MASKS

The continued possession of medicine masks by national, state, county and private museums, historical societies, and private collections is a

violation of our human rights, our group rights, our religious freedoms, and a violation and deprivation of the spiritual needs of our medicine societies and the people they serve.

Arguments to the contrary by anthropologists, ethnologists, museum boards and directors, educational institutions, not withstanding, the undeniable fact is that we are a contemporary civilization and culture with a functioning governing body of chiefs recognized by the government of the United States and the State of New York.

Therefore, all other entities are secondary and must give way to the six nations of the Haudenosaunee and our people as the ultimate and final title holder of our patrimony.

HISTORY

It is the opinion of the leaders of the Haudenosaunee that contemporary disciplines of anthropology, ethnology and related fields, and institutions such as natural history museums and historical societies have their roots in the Western theory of manifest destiny. A racist theory that permeated social, educational, and military thought up to and including present time.

In the United States, government support and use of anthropology gave the government a vehicle for rationalizing it´s treament of Indian nations and people in a smokescreen of scholarly activity. John Wesley Powell´s success in 1879, in convincing Congress that anthropology would be useful in getting Indians peacefully allocated to reservations made it possible for the Bureau of Ethnology to underwrite a large amount of research on topics somewhat tenuously to that end.1

Kathleen Gough pointed out that anthropology is the child of imperialism and "..it seems extraordinary then, that anthropology has no general theory dealing with imperialism".2 Anthropology and it´s related fields exist and are free to operate because of certain oppressive political conditions, "Anthropological fieldwork can function only when the field situation is guaranteed by superior power. Yet the anthropologist acts as if that power did not exist, despite the fact that his very mode of operation is predicated upon it." 3
Anthropologists have played a lead role in advancing racist and oppressive theories of imperialism, as best stated by John Wesley Powell:

> "...savagery is not inchoate civilizations; it is a distinct status of society with it´s own institutions, customs, philosophy and religion..All these must necessarily be overthrown before new institutions, customs, philosophy and religion can be introduced"4

It is also interesting to note that anthropology, and it´s related fields, does not assess the validity of contemporary Judeo-Christian religions, nor do they challenge or question the integrity of newly formed religious movements, such as Jerry Falwell´s Moral Majority or Pat Roberts' 700 Club. However, they feel they have the right to evaluate, denounce, interpret, and denigrate the leadership of the Haudenosaunee and other Indigenous nations.

This pompous attitude is best displayed in the recent remarks of William Fenton during the Williamsburg Conference on the "Imperial Iroquois" in the Spring of 1985. Dr. Fenton´s remarks were aimed at the current Tadadaho of the Haudenosaunee, Chief Leon Shenandoah, when he said: "..it (the council fire) burns today in the minds of the traditionalists for whom the Grand Council has symbolic value which they project on the media. Some of it´s critics among the Seneca say the smoke now arises from Tadadaho burning old tires on the reservation junkyard."

The remark is significant in the context of the forum in which it was presented, being a gathering of noted experts in their field who are expected to be dealing with the subject matter in a professional and dignified manner.

That anthropologists have, and do, become involved in the internal political affairs of Indigenous nations and their people is exemplified by the activities of William Fenton who campaigned for the overthrow of the traditional government of the Tonawanda Senecas in 1935.

Laurence Hauptman chronicles these events in his book "The Iroquois and The New Deal".

"John Collier, Commissioner of Indian Affairs, directed W.K. Harrison, the Indian Agent in New York, and William Fenton, the Indian Service community worker based at Tonawanda, to hold public meetings on the (Wheeler-Howard) Act, and to deliver copies and information door to door" pg. 65

"Fenton supported the Act because he feared that the educational and economic support would be lost if the IRA was rejected" pg. 68

"In December 1934, Commissioner Collier, in a speech in Pittsburg, stressed the need to work closer with anthropologists. The commissioner had borrowed this idea from the British Empire´s use of social scientists. Moreover his plan was to use them where missionary influence had previously been strongest.
In 1935, Collier appointed William Duncan Strong of the Bureau of American Ethnology to head the newly created Applied Anthopology Staff of the B.I.A. Through the efforts of Strong William Fenton was appointed as community worker in the Indian Service at Tonawanda receiving $2,000 per year subsidized use of his car and $3.50 per diem per day for travelling expenses." pg. 107

"The project was faced with an uphill battle. A major problem involved the by-passing of the chief´s council at Tonawanda, a deliberate move to the project rolling as fast as possible to secure W.P.A. funding without being held up by intertribal factional political activity. More over because the need for a group to take the lead and be a responsible sponsoring body or ´holding agency´ under the laws of the state, traditional Iroquois beliefs about themselves as an independent sovereignty would have emerged to block the council´s support for the center." pg. 130

The combination of the Depression years, Indians out of work and available W.P.A. monies created a fertile ground for exploitation and eco-

nomic control over the Senecas and other nations of the Haudenosaunee.

It was in this milieu of circumstances that Arthur Parker realized his dream project to build a collection of Iroquois art and cultural objects that would equal the collection of Lewis Henry Morgan, which had been destroyed by fire in 1911.

Despite the objections of traditional leaders and people to the "secularized" carving of medicine masks, Parker successfully co-opted people into a massive carving project that was the beginning of the commercialization of sacred masks. The ability to de-spiritualize the sacred is an art that seems to be peculiar to Western sciences and civilization. It has been noted by some Westerners, such as Levi-Strauss:

"To study men, we treated them as objects; but to study men as objects - from the privileged position of the imperialistic observor - was but to deal with them as they were already dealt with in the world of economic and political coercion. As the laborer was treated as a source of impersonal labor power, so we too, treated men as sources of tradition, abstracted from their evident human predicament."

Individual Indigenous people have been the victims of all of those designs to overthrow, eradicate, or in the least make subordinate, the ways of life they were born to. These persons then become local imitations of the racist and oppressive originators of this whole pattern of dominance.

The curious pattern that now occurs is the development of "Indian" anthropologists who aspire to the credentials of that discipline, and, become spokespeople for Indian nations, people and cultures. One such person is George Abrams, director of the Seneca Iroquois National Museum in Salamanca, New York.

During a workshop entitled: "Care and Interpretation of Native American Collections" at the Buffalo Museum of Science in April 1983, Mr. Abrams made two remarks:

1. that he was addressing the "faithful", that is the museumologists assembled who perceived as an informed audience concerning Indians; and,
2. that his opinions "were not popular among other Native Americans"

It is important to examine the person more closely in this case because his opinions are regarded as definitive statements on the cultural patrimony of the Haudenosaunee throughout the non-Indian world.

In November 1979, the "Courier Express" ran a story headlined: "Museum Head Approves Display", datelined Salamanca. Mr. Abrams was interviewed concerning a display of Haudenosaunee medicine masks at the Buffalo Museum of Science. In the article Mr. Abrams promotes the line of there being a difference between "ceremonial" and "commercial" medicine masks. The article states:

> (Dr.) Abrams...finds 'nothing objectionable' with the display...The types of masks being displayed he said, are

> ceremonial masks, but are masks produced for commercial puposes only...Officials of the Buffalo Museum of Science consulted with (Dr.) Abrams concerning the policy of the Salamanca Museum, before permitting the current display to be opened to public, (Dr.) Abrams confirmed."

In reprinting this article we have placed parentheses around the word Dr. because there is much to question about the authenticity of this title.

George Abrams actively promotes the policy of displaying medicine masks and the sale of medicine masks. The public is entitled to know where he acquires his authority for such activity. He says that the policy is a decision of the Advisory Board of the Seneca Iroquois National Museum and that they have permission from the Longhouse people to do this.

The Haudenosaunee chiefs have discussed this matter with the Longhouse leaders in Cattaraugus and Allegany and they are all of one mind in their opposition to this exploitation.

It has been pointed out that George Abrams is a Christian and therefore cannot speak for the Longhouse People or the medicine societies. So he derives no authority from the institutions and leadership of the traditional Seneca people.

It is also important to note that Mr. Abrams has not fulfilled the requirements for his doctoral degree in anthropology, and is therefore misrepresenting himself as a doctor of anthropology. This becomes important when such misrepresented credentials are the criteria for appointments to prestigious boards such as the Heye Foundation.

The divergent opinions of Christianized or secularized Iroquois are irrelevant. However, when the opinion of such a person is coupled with the responsibility of sacred masks and policy regardinng Haudenosaunee patrimony then we must be clear in our position that this person is violating our religious freedoms and is a full party to the exploitation of our culture.

Such an Indian person also becomes, knowingly or unknowingly, an ally to all those who seek to perpetuate cultural genocide by insisting on denying us and other Indigenous nations our national cultural heritage and patrimony.

No other document draws the battle lines more clearly than the letter from the so-called Committee on Anthropological Research in Museums of the American Anthropological Association to then Governor Nelson Rockefeller, dated February 23, 1970 and issued in Norman, Oklahoma. The letter is signed by Dr. William C. Sturtevant, Smithsonian Institution, Dr. Donald Collier, Field Museum of Natural History, Dr. Phillip Dark, University of Southern Illinois, Dr. William Fenton, State University of New York, Mr. Ernest Stanley Dodge, Director, Peabody Museum.

In two paragraphs these men set forth the racist, irrational, and demagogic arguments that characterize the conflict:

> "As scholars whose researches depend on the great ethnographic

> collections of now largely vanished primitive peoples of the world we urge the preservation of such mementos of culture in museums. We deplore the principle of returning such treasures to the acculturated descendants of their original owners lest a precedent be established that would require logically returning Ibo carvings to Nigeria, Asmat art to New Guinea, and the works of Florentine painters to Italy.
> That the wampum collection of New York has now an appreciated value of one quarter of a million dollars is a further footnote on inflation. Nevertheless, state property should not be legislated away lightly in the illusion of religiosity or as capital in the civil rights movement to an unidentified portion of the aboriginal inhabitants who may not fairly represent the 10,000 descendants of the Iroquois Confedracy now living in New York, or an equal number in Canada.(Emphasis added)6

This letter is significant for several reasons, 1. that it is signed by the top anthropological authorities of the times, and 2. that it encompasses most of the processes and terminology used against Indigenous nations and people in contemporary times for the purposes of maintaining custody and control of our national treasures.

Ethics seems to be the last consideration in the letter to Governor Rockefeller. By this letter the signers violate every cannon set forth by the American Anthropological Association in their Principles of Professional Responsibility, in particular:

> "In research, an anthropologist´s paramount responsibility is to those he studies. When there is a conflict of interst, these individuals must come first. The anthropologist must do everything in his power to protect their physical, social, and psychological welfare and to honor their dignity and privacy." (Emphasis added)

There remains one last important point in this letter, and that is the reference to the monetary value of the sacred wampum belts. This leads to a factor that isn´t talked about publicly with museum circles. But is certainly of utmost interest nationally and internationally because of the clandestine trade in sacred treasures of other nations and their cultural patrimony.

Recently, New York Attorney General Robert Abrams brought criminal charges against the internationally recognized auction house of Sotheby Parke-Benet as dealers in stolen goods.

These charges were brought in behalf of the Jewish people and the loss of their national cultural treasures by an individual who did not have title to these treasures, and therefore could not convey title in the sale. Attorney General Abrams charged Sotheby´s with prior knowlege of this questionable title and insisted on auctioning the goods.

This case is of extreme importance to the matters here tonight, because for the first time the moral question and moral responsibility of the State of New York in such matters was addressed.

This reflects directly upon our case, and cases of all Indigenous

nations and peoples who are the victims of such trades, sales, and exchanges nationally and internationally.

We are gaining support from many quarters nationally and internationally such as the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property adopted by the General Conference of UNESCO at it's sixteenth session in Paris, France on November 14, 1970. This Convention has been accepted and codified by the United States with President Reagan signing the Convention on Cultural Property Implementation Act (P.L. 97-446) on January 12, 1983. 6

The legal issues of repatriation revovle around the status of title. Law favors title, title is absolute ownership against the world. The national cultural treasures of the Haudenosaunee are the property of today's generation of people and the governing body of chiefs who represent them. Possession does not run against the sovereign without his consent. Therefore, title remains with the Haudenosaunee.

The balance of equities tips decidely in favor of the Haudenosaunee when measured against the relatively minor loss of property considering the vast collections of the Heye Foundation, the New York State Museum and the Smithsonian Institution.

The only other resource to title of the Haudenosaunee patrimony and national cultural treasures is to destroy our nations as we stand today, and that is forbidden by your code of ethics. Furthermore, this power resides outside of the authority of anthropologists, ethnologists, museums public and private, and their related fields.

MEMO

DATE: October 8, 1987

A / TO: Don Richards
c.c.: All Personnel

DE / FROM: Benito Migliorati

SUJET / SUBJECT: HALLOWEEN PARTY

October 31st, 1987 (as per previous memo)

We will have prizes for the best costumes.

There will be three (3) prizes as follows:

1st prize: 2 tickets - return airfare only to Florida
(Fort Lauderdale or Miami)

2nd prize: a weekend for two (2) in one of our suites with whirlpool and dinner for two on Saturday night in Le Clavier.

3rd prize: Dinner for two (2) including one (1) bottle of wine.

Good Luck!!!

Benito Migliorati

BM/fgf

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FOOTNOTES:

1. Hinsley, 1981; and Stocking 1985 B: 113
2. Caulfield 1974: 182
3. Wolf 1974: 459
4. Wolf 1974: 254
5. Fenton, W. Indian Historian vol 3, #2 (1970)
6. U.S. Information Agency Fact Sheet, "Cultural Property Advisory Committee

SUPPORT REPATRIATION OF

NATIVE AMERICAN SACRED OBJECTS

Please write letters in support of repatriation to the following:

Dr. Roland Force, Director
Museum of the American Indian, Heye Foundation
Broadway at 155th Street
New York City, N.Y. 10032

Robert McCormick Adams, Secretary
Smithsonian Institution
Washington, D.C. 20560

Martin Sullivan, Assistant Commissioner
New York State Museum
Cultural Education Center
Empire State Plaza
Albany, N.Y. 12230

Also, send letters of support for the return of Native American sacred objects now in the New York State Museum to:

Governor Mario Cuomo
Governor's Office
Executive Chamber
Albany, N.Y. 12224

with copies to:
Secretary of State Shaffer
Department of State
162 Washington Street
Albany, N.Y. 12231

Statement
of
Robert E. Lewis, Governor, Pueblo of Zuni
before the
Senate Select Committee on Indian Affairs
on S.1723
November 18, 1987

Mr. Chairman and Members of the Committee

My name is Robert E. Lewis and I am the Governor of the Pueblo of Zuni in New Mexico. In behalf of my Tribal Council and my Zuni people I extend our appreciation for time given us to appear before this Committee in regard to S.1723, the American Indian Regional Museum Act of 1987 which we fully endorse.

It is a sad fact that a greater percentage of the American Indian population throughout the United States have never realized the vast number of art objects and artifacts that have been stashed away in museums for many years, that were taken out of their homelands, let alone the general public.

Wagon loads of artifacts and other objects were hauled out of our reservation by workers for the Department of Ethnology, under Army escort, in the late 1800's and early 1900s and only until recent years have we come to know where they were stored.

We also strongly endorse the proposed creation through S.1722 of a National American Indian Museum and Memorial Act, which would establish a National Indian Museum on the Mall in Washington as part of the Smithsonian family of museums; however, we also agree with the concept that it is time that

a family of satellite museums be planned to make native treasures more available to all Americans, as implied in S.1723.

The unequalled collection of over 1,000,000 Indian art objects and artifacts that the Museum of the American Indian, Heye Foundation located in New York City has, should be made accessible to the public, which is not so at present. Back rooms and storage bins are not the place for these treasures.

We understand that museums are expensive institutions to operate, but the working together of people in this line of work and if proper plans are laid out for the relocation of the Museum of the American Indian, Heye Foundation from New York City to Washington is implemented then plans can be made to establish the regional satellite museums that we would like to have.

We appreciate and commend the efforts being made by caring legislators through these bills the implementation of what we all know is right, and request sincerely, their passage. Thank you.

STATEMENT OF SENATOR ADAMS ON S. 1722

Mr. Chairman, I would like to express my support for the legislation that is before this joint session of the Senate Rules and Indian Affairs Committee. The establishment of a National Museum of the American Indian as part of the Smithsonian Institution is a long overdue tribute to American Indians.

This legislation takes important steps towards preserving American Indian artifacts, and towards educating the public on the rich cultural tradition of the first Americans.

First, the bill would move the Museum of the American Indian, Heye Foundation, from New York City to a new site on the Mall in Washington, D.C., making it part of the Smithsonian Institution. This collection, compiled by George Gustav Heye, is the largest and most impressive collection of American Indian art and artifacts in the world. Unfortunately, this collection is presently housed in inadequate facilities. The museum is currently able to display only a fraction of their collection at any one time. Existing staff and storage capabilities are so meagre that the collection has not yet even been completely catalogued.

Creation of a new Smithsonian museum, the National Museum of the American Indian, Heye Foundation, will provide necessary exhibition space and curatorial services for this invaluable collection. In addition, creation of a national museum on the Mall for American Indian cultural artifacts sends an important message to the American Indian community. Their history and culture is an integral part of our national history and culture, and deserves a place of recognition among our most sacred national monuments.

The second part of this legislation seeks to correct a longstanding injustice against American Indians. During the late 1800's our government systematically collected the remains of over 18,000 American Indians. Sacred burial grounds were raided, and bodies were stripped of their flesh upon being killed to enable their skeletons to be collected. These barbaric atrocities were carried out under the authority of the Surgeon General of the United States. Many of these remains are now in the possession of the Smithsonian Institution. This bill authorizes placement of these remains in a new national memorial to the American Indian that will be part of the new museum.

Mr. Chairman, I come from a state where American Indian life is not only a part of our historical culture, but also part of our living culture. Washington State's Indian tribes make valuable contributions to the state's management of its natural resources, and to the cultural variety of the entire Northwest region. We in Washington State have experienced first hand the benefits of

access to this rich cultural tradition. The bill being considered today extends that access to the nation as a whole.

Bob Adams

Testimony of Ann Rockefeller Roberts
Before "The Senate Select Committee on Indian Affairs"
On S. 1722 and S. 1723
November 18, 1987

It is an honor and a privilege to have the opportunity to testify today on behalf of a National American Indian Museum on the Mall in Washington, D.C.

In preparing these remarks I asked myself what was important here? Why has this issue mattered so much for so long? Why should there be a permanent collection of American Indian art and artifacts on the mall? Why should the great collections of the Heye Foundations be in such a museum? Why persist in this path that has engendered so much difficulty and disappointment, so much controversy?

Margaret Mead always said that we should raise the level of the dialogue in order to understand more fully what we do. I understand that to mean that we must look to the heart of the matter, that we need to seek the truths that are central to the situation and lie behind our disagreements.

It seems to me that the answer lies simply in the character of our nations capitol, in the nature of the Heye Collections and in the relationship between our two cultures.

Washington is the symbolic center of our nation. It is the

seat of our national government and furthermore it houses in its extraordinary museums the materials that reflect the general American experience. It is the place we go in order to understand who we are. We send our young in bus loads each year to teach them what it means to be American. We invite our visitors here to show them our ideals and our government.

Washington is in a district rather than a state--the District of Columbia--setting it apart from the states with their own governing bodies. It is therefore a neutral zone that speaks to all Americans, is available to all Americans--not political or partisan. It is a place where we can reflect, where we can renew our ideals without being limited by any particular region or group.

It is a giant living archive, a repository for our legacy--our past and present--our hopes for the future. It seeks to be complete--we need it to be complete--to describe the American experience in its entirety. That experience includes the legacy of the American Indians, the original inhabitants of this land.

Their history, culture and art. Their understanding of the land, their ideology and spiritual values are a part of what this country is and of who we all are. Now that piece is missing--like the front tooth.

It seems inevitable, normal, necessary that there is one

remaining space on the mall. Having a National American Indian Museum in that space would allow a fullness of how we understand ourselves, a completion of the experience that is uniquely American.

The Heye Foundation Collection indicates itself to be a collection of major significance suitable to be in such a museum. It is the only collection existing of comparable breadth and depth. There are other superb local or regional collections across the country but none that represent the fullness of the Indian experience in both North and South America as extensively as it does. Shouldn't such a collection be in the symbolic center of our country where it can speak to all Americans? Shouldn't it be available to the public at large and not just the citizens of one city? Eight to ten million visitors come to Washington each year, one to two million to New York City. Shouldn't such a collection be located next to other museums of a similar cosmopolitan nature? Shouldn't such a collection be where the people it represents can have more extensive access to it?

The Heye Foundation is located in New York simply because that is where George Heye lived. It is not in New York because its collections are intrinsically related to New York or particular to one kind of expression--such as the Iroquois-Mohawk Confederacy. It is not a regional or provincial collection. It is national even continental in its scope and it demands to be in a national setting.

Native American culture permeates our white European culture at every level. In the 1920's when C.G. Jung visited the U.S. he spoke about the "mysterious Indianization" of the American soul as the result of living on this shared soil. He commented that the Yankee-American presence was remarkably different from the European presence both physically and psychologically. He went on to say that as he worked in depth with white Americans in analysis he found over and over that our symbols of the ideal were Indian. "The hero," he says, "is always the embodiment of man's highest and most powerful aspiration, or of what this aspiration ought ideally to be and what he would gladly realize. It is therefore of importance what kind of fantasy constitutes the hero motif. In the American hero fantasy the Indians' character plays a leading role."

We have put an idealized Indian Head on our five cent piece.. Many of our public buildings and public spaces have Indian sculpture as adornment--signifying our desire to emulate traits of dignity, courage, endurance and personal strength.

At the level of governance our constitution and our representative system of government are based on that of the Five Nations. There are records in the New York State Museum of Albany of a meeting of colonists in Lancaster in 1744 where an Iroquois orator suggested they form a union. In 1775 commissioners of the Continental Congress officially thanked the Iroquois for suggesting

such a union to them. It is also known that both Benjamin Franklin and Thomas Paine recommended the Iroquois system of government to the colonies. Felix S. Cohen wrote, "Politically, there was nothing in the kingdoms and empires of Europe in the 15th and 16th centuries to parallel the democratic constitution of the Iroquois Confederacy with its provisions for initiative, referendum, and recall, and its suff. ge for women as well as men." And Sylvester M. Morey wrote, "Today the union of our Thirteen Colonies is so obviously right that no one ever wonders what North America would be like if it had become a land of numerous small countries like South America. By keeping the states separate and yet binding them together, we brought the strength of the union into each individual state and at the same time allowed enthusiasm and love of liberty to pour from the states back into the union." This is truly a unique and ingenious system.

Then there is the Eagle--the emblem of the U.S. and a central symbol to the Indian people as well. To the Indians and to all ages it is honored as the messenger from heaven. He is referred to constantly in the Bible:

"They that wait upon the Lord shall renew their strength; they shall mount up with wings as eagles."

"The bird of the air shall carry the voice and that which hath wings shall tell the matter."

The names of many of our towns and cities, our lakes and rivers bespeak our Indian heritage as well. Names such as The Penobscot, Mt. Kaatahin, The Mohawk Valley, Sebago Lake, The Kennebunk River, Niagara Falls, Saratoga Springs. We give our businesses and our teams Indian names as well. These names are everywhere in the east and west, in the north and south

In the world of sports and the outdoors we are indebted to the Indian for lacross, the canoe and canoeing, snow shoes, camping, summer camps, the Boy Scouts and the Girl Scouts.

Our Boy Scout movement and later the Girl Scouts became a way of character building through contact with the out-of-doors--a way of recognizing the importance of the values of native people.

When we shop or sit down at table we are surrounded by the foods of Native Americans. We use their cooking techniques as well. Avocados, beans, both white and sweet potatoes, peanuts, peppers, pineapples, sunflower seeds, squash, pumpkins, turkey, tomatoes, wild rice and, of course, the fundamental, sacred grain corn were all under cultivation here when the first colonials arrived. The clambake, baked beans and the idea of barbecue, steamed lobster, spoonbread, cranberry sauce and mincemeat pie--many of our classic American dishes are American Indian as well.

American Indian arts and crafts have greatly enriched our heritage and are perhaps the most well-known, acknowledged and accepted influence and contribution. Their skills in silversmithery, pottery, basketry, sculpture, beadwork, leatherwork, featherwork and quilt work are outstanding. Their workmanship is beautiful and of high technical quality. Their imagery is not only precise and particular to them it is universal. Yet the materials they use are immediate, particular to the earth--wool from the sheep, birch bark, grasses, feathers, quills.
It is this combination of precise images, universal symbols going beyond the object to something larger combined with the particulars of the earth resonant materials that speak immediately to our earth rootedness, our humanness.

Finally the land--the earth common to us all--our Indian brothers and sisters have always understood that the land is sacred that it is our life, our mother. We have largely ignored this teaching until recently. Now we again can turn to the Indian traditions and find much to guide us in understanding how to live in harmony. They have practiced the ideals of Thoreau and Emerson always--accepting the divine presence as manifest in the natural world.

> " This we know. The earth does not belong to man; man belongs to the earth. This we know. All things are connected like the blood which unites one family. All things are connected.
>
> Whatever befalls the earth befalls the sons of the earth. Man did not weave the web of life, he is merely a

> strand in it. Whatever he does to the web, he does to himself.
>
> One thing we know--our God is the same God. He is the God of man and His compassion is equal for the red man and the white. This earth is precious to Him and to harm the earth is to heap contempt on its Creator." Chief Seattle.

And the depth of their spiritual tradition is as equal to all the other great traditions--their great spiritual leaders speak the same universal truths.

All these things are what come to my mind not as a scholar of an expert of any kind but as one white American living in the most urban of cities. As a child, a young girl, a woman my psyche was informed by these things. They were part of a growing awareness of this culture that began to be accumulative. They evoked a response in my humanness from the depth of their humanness.

We have taken all of that richness all these years while refusing to fully receive its people, or to recognize the integrity of their culture. It is surely time that we honored the source of so much. This we can do by creating an outward, visible form--a building--a museum in our country's center and sacred place--filling it with the signs and symbols of these people.

We can do this with admiration, not pity or guilt. With a final realization of the true value of this part of ourselves as Americans. By so doing we can restore the balance within our culture.

We each are Indian in that sense--my life experience is of theirs--the totality of who I am includes them--their values inform mine, their health or sickness is my health or sickness.

So why do we wait? Let us give up the arguments born of partisanship's politics and cleave to the truth that we are indeed one people born of this land of America and it is surely time to acknowledge our Indianness by building a monument at our sacred center to house its presence.

It is time to celebrate our Indian heritage--to make manifest in an outward form what is already so within us.

"It is in remembering that our power lies,
and our future comes
This is the Indian way."

Anna L. Walters, "Come My Sons"

"Heritage is people: people are the earth: earth
is heritage
By remembering these relationships--to the people.
The land, the past--we renew in strength our
continuance as a people."

Geary Hodson "The Remembered Earth"

ANN ROCKEFELLER ROBERTS

Ann Roberts, a New York City native, was graduated from the Brearley School and Wellesley College. She is co-founder of the Rockefeller Family Fund and served as its president from 1974-1980, and has been a trustee and member of the executive committee and nominating committee for the Fund at various times. In addition, she served as a trustee at Wellesley College from 1972-1978, where she helped found the Coretta Scott King Scholarship Fund, 1967-1969; as chairperson and member of the selection committee for the Michael C. Rockefeller Fellowship Fund at Harvard University since 1968; as a member of the advisory and development committees for Women in Foundations/ Corporate Philanthropy, 1975-1983; as a board member, a member of the nominating committee and a member of the advisory committee for the Museum of the American Indian, 1976-1980; as a founding committee member, member of the board, and treasurer of Women's World Banking since 1980; as an advisory committee member of the National Women's Political Caucus, 1979-1983; and as a board member of Northern Lights Institute since 1983.

She also administers a small fund making grants in the areas of social justice, the environment and nuclear power. She is currently getting a masters degree in Landscape Architecture at the University of Virginia in Charlottesville.

Ms. Roberts and her husband T George Harris, Editor-in-Chief of AMERICAN HEALTH magazine, live in New York and have eight children and two grandchildren between them. Her father, the late Nelson Aldrich Rockefeller, served for three terms as Governor of New York from 1958-1973 and as Vice-President of the United States under President Gerald Ford from 1974-1977.

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NATIONAL CAPITAL PLANNING COMMISSION
1325 G STREET N.W.
WASHINGTON, D.C. 20576

STATEMENT

of

ROBERT E. GRESHAM
ACTING EXECUTIVE DIRECTOR

of the

NATIONAL CAPITAL PLANNING COMMISSION

before the

SELECT COMMITTEE ON INDIAN AFFAIRS

and the

RULES AND ADMINISTRATION COMMITTEE

on

S. 1722

November 18, 1987

Mr. Chairman and members of the committees, my name is Robert E. Gresham. I'm the Acting Executive Director of the National Capital Planning Commission. With me today is Katherine Barns Soffer, General Counsel of the NCPC. Thank you for the opportunity to present the Commission's position on S. 1722.

The National Capital Planning Commission, a Federal agency, was mandated by the National Capital Planning Act of 1952 to serve as the central planning agency for the Federal government in the National Capital. The Commission comments and advises upon the location and construction of Federal public buildings in the National Capital and its environs and has "in lieu of zoning" approval over the construction of Federal public buildings in the District of Columbia.

With respect to memorials, the Commission operates under the recently enacted "Commemorative Works Act of 1986," P.L. 99-652. Section 7 of that act gives our Commission as well as the Department of the Interior and the Commission of Fine Arts approval over the site and design of all commemorative works placed on Federal lands in the National Capital Region.

The Commission supports the concept of a National Museum of the American Indian. It would obviously be an important addition to the Smithsonian Institution's enclave of museums. Such a museum would also be consistent with the Comprehensive Plan for the National Capital, which calls for the extension of cultural activities along Independence Avenue from 3rd to 14th Streets, SW.

In spite of our support for the general concept, however, we would like to raise several concerns about S. 1722. First is the size of the building. Title I, section 103(c)(2) of S. 1722 authorizes, at the minimum, a 400,000-square-foot National Museum of the American Indian on U.S. Government Reservation No. 6. Based upon our staff's evaluation of the site size and the relationship of the site to neighboring buildings, including the U.S. Capitol, we believe that a 400,000-square-foot building would be substantially too large for the designated site. An official of the Smithsonian Institution has also expressed this concern. Although we realize that this project is in the very early stages and that no plans are yet available, we can confidently project that a 400,000-square-foot building would be out of scale with its surroundings, particularly with respect to height. We would recommend, therefore, that the bill contain no reference to a minimum size.

We are also concerned that the proposed museum is to include a memorial in which the skeletal remains of native Americans in the Smithsonian's collections will be interred. The Commission believes that this would set an unfortunate precedent which could lead to other requests for burials on The Mall. We note that the Smithsonian Institution is also concerned about this aspect of the proposed legislation, and we rely on their expertise.

Finally, we would note that pursuant to the Commemorative Works Act the site and design of any memorial would be subject to the approval of this Commission, the Department of the Interior and the Commission of Fine Arts, notwithstanding provisions in the bill authorizing the Board of Design and the Board of Regents to finalize design plans. We would suggest that the Commemorative Works Act be specifically referenced in S. 1722, so as to avoid any confusion over its applicability to the memorial authorized by the legislation.

We have appreciated this opportunity to testify before you today. I would be happy at this time to answer any questions you may have.

STATEMENT OF SUZAN SHOWN HARJO, EXECUTIVE DIRECTOR, NATIONAL CONGRESS OF AMERICAN INDIANS, FOR THE RECORD OF THE HEARING BEFORE THE HOUSE INTERIOR AND INSULAR AFFAIRS SUBCOMMITTEE ON GENERAL OVERSIGHT AND INVESTIGATIONS REGARDING LOOTING OF INDIAN ARCHAEOLOGICAL SITES, CORTEZ, COLORADO, OCTOBER 19, 1987.

The National Congress of American Indians (NCAI) is vitally interested in the protection of the sacred sites and the cultural and historical patrimony of the American Indian and Alaska Native nations, and I am very appreciative of the opportunity to present this statement on behalf of our membership and NCAI President John F. Gonzales. The NCAI is the oldest and largest membership organization representing and advocating the interests and positions of American Indian and Alaska Native governments and people.

The many witnesses at your hearing in Cortez provided firsthand testimony regarding the rampant looting of Indian archaeological sites, both on and off Indian lands. They also testified about the difficulty in policing 450 million acres of Indian territory and public lands in connection with violations of the Archaeological Resources Protection Act (ARPA). We would point out to the Committee that looting and desecration of archaeological sites, whether on public, state or Indian and other private lands, is a very serious problem for Indian peoples. We now have jurisdiction over only three percent of our aboriginal lands. Obviously, the other 97% of lands also contain myriad sites of cultural and religious significance, including the burial grounds of many of our ancestors.

Our testimony will focus on the statutory changes to ARPA which are needed to better assure that the rights of Indian peoples are protected. The intent of the ARPA is to protect archaeological resources. In fact, the law discriminates against Indian people by allowing excavation of Indian graves and the taking and storage of skeletal remains and associated grave goods if a person has a permit pursuant to the Act. ARPA discriminates against Indian people by including in the definition of "archaeological resources" human remains and grave goods which are over 100 years old.

By and large, non-Indians graves are marked with headstones and are in defined cemetery areas. There are laws in every state which impose criminal penalties on persons who desecrate cemeteries, with cemeteries generally defined as burial places with markers. The delegates to the 43rd Annual NCAI Convention in Phoenix, Arizona, adopted a resolution opposing the legal definition of human remains and grave goods over 100 years of age as archaeological resources. (See attached copy of that resolution.) ARPA is ambiguous with regard to the disposition of archaeological resources, and makes no differentiation between an ethnographic item of no particular religious or cultural importance and human remains and associated grave goods. One section of ARPA says that archaeological resources removed from public lands are to be curated in an academic institution, while another section provides that the Secretary of the Intrerior will promulgate regulations regarding the "ultimate disposition" of these resources. We strongly believe that ultimate disposition should include return to tribes of human remains and grave goods, as well as the repatriation of Indian and Native sacred items in current collections and those which are unearthed in the future.

The result of the legal excavation of graves, both under ARPA and its predecessor, the Antiquities Act, is that the human remains of hundreds of thousands of Alaska Native and American Indian people are stored in museums, universities and other institutions around the country. The Smithsonian Institution alone has the remains of more than 19,000 American Indian and Alaska Native people stored in the Natural History Museum in Washington, D.C.

The desecration of burial grounds, the separation of our ancestors from the material objects placed with them at the time of death intended to accompany them to the spirit world and the study and storage of Indian remains are violations of what should be our constitutionally-protected right to the free exercise of religion. Although there is great diversity in the religious traditions of the Indian and Native nations, there is a generally held belief among Indian and Native people that, when a person dies and is given the proper ceremonial treatment, the remains and any sacred objects that are placed with the remains are intended to be left undisturbed by human activity forever.

NCAI makes the following specific recommendations with regard for amendments to ARPA:

1) Remove human remains, sacred objects and grave goods from the definition of "archeological resources." While we believe that the desecration of human remains and grave goods should fall under the penalties of the ARPA, we favor placing them in a category that would better reflect their sacred nature and that would not subject them to legal excavation and curation.

2) If graves are inadvertently or otherwise excavated, ARPA should contain a presumption of reburial or other disposition in accordance with tribal wishes.

3) Require, through rulemaking in consultation with Indian and Native governmental and traditional religious leaders, that a process be established to provide for the return to tribes,at their request, of human remains, grave goods and sacred items. We believe that the Secretary of the Interior already has the authority to provide for repatriation under Section 5 of ARPA as part of the process of determining "ultimate disposition" of resources from public lands. However, experience demonstrates that the Department of the Interior does not intend to promulgate such a rule.

4) Require that the National Park Service and Bureau of Indian Affairs (BIA) undertake a study, in consultation with Indian and Native tribal and religious leaders, regarding ways to improve enforcement of ARPA on Indian lands. The study should recognize the governance and customary prerogatives of the Indian and Native nations.

5) Recognize and specifcally provide for tribal enforcement and imposition of civil penalties under ARPA or customary Indian and Native judicial forums.

Two matters which would be most helpful to tribal efforts to protect important sites and areas require amendments regarding enforcement of the National Historic Preservation Act (NHPA). First, BIA should be required to fulfill its responsibilities under Section 110 of the NHPA by inventorying and locating properties on Indian lands eligible for the National Register of Historic Places. This is a function which must be done in consultation with tribal governments and traditional religious leaders, and is a function which could certainly be contracted by tribes. Second, there should be a tribal set-aside of the funds appropriated annually for the National Historic Preservation Fund. In the 20-year history of the NHPA, no funds from that program have ever gone directly to an Indian or Native nation. There is authority for the Secretary of the Interior to request historic preservation funds for tribes, but no such request has ever been made and no monies have been allocated directly to tribes. And, to be quite candid, most state historic preservation programs have not been sensitive to Indian preservation needs, either on or off Indian lands. If preservation efforts are to succeed, including the reduction of illegal looting, then tribes must have financial resources with which to work and with which to establish our own preservation programs.

Thank you for your attention to our concerns. The National Congress of American Indians is eager to work with this Subcommittee and the Congress to bring about the educational and statutory changes needed to protect the remains of our ancestors and our priceless heritage.

STATEMENT OF ROBERT H. SIMMONS, FREE-LANCE WRITER AND JOURNALIST, OF ARLINGTON, VIRGINIA, TO JOINT HEARING ON PROPOSED NATIONAL MUSEUM OF THE AMERICAN INDIAN BY SENATE COMMITTEE ON RULES AND ADMINISTRATION AND SENATE SELECT COMMITTEE ON INDIAN AFFAIRS, UNITED STATES CONGRESS, WASHINGTON, D.C., NOV. 18, 1987

Summary: The integrity of the National Mall would be damaged by any large construction on the site recommended by the Smithsonian Institution for its proposed National Museum of the American Indian; the National Mall is a National Treasure; present open spaces need preservation; another site should be found, e.g., Potomac Park.

The Smithsonian Institution proposes construction of "a building at least 400,000 square feet in size" on a site at the eastern end of the National Mall "bounded by Third Street, Maryland Avenue, Independence Avenue, Fourth Street, and Jefferson Drive, in the District of Columbia" to house a proposed "National Museum of the American Indian."

This proposal is apparently intended as a lure to the trustees of the Heye Foundation of New York City to turn over to the Smithsonian Institution its large collection of Indian art objects and artifacts and related library of 40,000 volumes, which are now housed in New York City. The proposal is premature.

Although Public Law 94-74 reserved that National Park Service site "for the future public uses of the Smithsonian Institution," it does not provide or suggest carte blanche for large-scale construction. Indeed, in 1975, notice was made that any construction on that site would be minimal -- in the nature of a possible garden-type development.

An enlightened program for the National Mall demands that the open space at its eastern end, which includes the proposed new museum site, be kept free of any new construction -- especially the construction of such an overwhelming building as that proposed in S-1722 under consideration. The National Mall is a National Treasure of landscape architecture worthy of protection by Congress.

The following facts should be considered:

1. A visual buffer zone of open space is necessary between the present huge buildings along the National Mall and the huge buildings on Capitol Hill and other nearby sites.

2. One more huge building would occupy too much of this needed open space, diminishing the use and beauty of the open space and encroaching upon the Capitol building itself and its special environment.

3. A building on the proposed site would become one of a pair with the East Building of the National Gallery of Art, located on the site opposite, across the Mall to the north. As with a pair of urns on gate posts, one will take from the other. The East Building, designed by I.M. Pei, is accepted as one of this century's major works of architecture. The new building would only diminish the East Building's artistic values in the attempt to usurp its honors.

4. Smithsonian officials predict that the proposed new museum would have 8-million to 10-million visitors per year. The nearby National Gallery of Art and National Air and Space Museum already are the most heavily attended museums in the world. One more such attraction in that immediate vicinity would create an impossible traffic and parking situation and provide one more stressful pressure on the pleasant use of the National Mall and its facilities.

5. Another site should be found for the proposed National Museum of the American Indian. There are many in the Washington area. Note, for example, the feasibility of Potomac Park, owned by the National Park Service and occupied by little more than a golf course. That kind of space would be appropriate for a museum devoted to the artistic achievements of the American Indian -- who lived in and gloried in the open spaces of this country before the encroachment of our huge modern structures.

Prepared Statement of Mary Jane Fate, Past President,
North American Indian Women's Association

I am [illegible] to testify before the Senate Rules Committee in favor of Senate Bills 1722 and 1723. Senate Bill 1722 authorizes the establishment of the National Museum of the American Indian, Heye Foundation within the Smithsonian Institution, and to establish a memorial to the American Indian, and for other purposes. Senate Bill 1723 authorize the establishment of certain regional exhibition facilities as part of the Museum of the American Indian, and for other purposes.

My name is Mary Jane Fate. I am past President of the North American Indian Women's Association. This organization was formed for the betterment of all Indian communities, families, enhancement of our culture and sharing of our culture and getting to know other cultures. Betterment of our economical conditions and well being of all Indian Individuals.

I am presently President and Executive Director of Baan o yeel kon Corporation, a for profit corporation formed pursuant to the Alaska Native Claims Settlement Act (the village of Rampart, Alaska). I reside in Fairbanks, Alaska.

I am also founding member and past board PResident of the Institute of Alaska Native Arts, Inc. The primary mission of this organization is to provide opportunities for continued development of the arts of Alaska Natives, including cultures of Eskimos, Aleuts, Athabascans, Tlingits, Haidas and Tsimshians.

In the findings of all of my activities throughout the Nation and the State of Alaska, there has never been established a home or place to preserve and enhance the history, thus artifacts and precious ceremonial and survival relics of our original peoples. The tragic results of no place to preserve the native peoples history is witnessed as a great loss through destroyed, stolen, misplaced, purchases, relocations and unidentified objects.

The State of Alaska have a large portion of the population of native people. The 1980 census reports a total population in the State of Alaska as 401,851 with the Alaska Native population as 64,103. Many thousands of other Alaska Natives reside out of the State. The Aleut population was 8,090; Eskimo 34,144 and Indians 21,869.

I quote a Report to the Alaska State Legislature on "ALASKA NATIVE ARTS/ CULTURAL CENTER of May 1982, "There exists a vital need for preservation and maintenance of Native Cultures. The need transcends individual disciplines, extending from education and art to cultural documentation and research...Alaska Native cultures should be presented by the Native peoples themselves, reflecting their view of past and present lifestyles".

The Kodiak Area Native Association researched the need for a museum, after siting tragic events which took a heavy toll on NAtive cultures, with the result that the intricate tolls and lifeways developed over 8,000 years only exists in the knowledge held by a handful of elders, in the archaeological record, and in the storage rooms of distant museums.

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Some of the Kodiak Native findings stemed from the time when the Native culture on Kodiak Island evolved into a powerful society that rivaled any people on the North Pacific in terms of population, cultural complexity and artistic tradition. Then the Russians arrived bringing diseases and disrupted the Native way of life which resulted in relocations of the people which further eroded the higly political, social, and religious system of the people. This can be said for many more of our Indian Cultures throughout the United States.

According to Rose Atuk Fosdick, Services Director of the Institute of Alaska Native Arts in Fairbanks, she states "There is a physical need for a space within the State of Alaska for the traditional and contemporary arts for preservation purposes".

I urge the Rules Committee and the United States Senate to vote favorably on Senate Bills 1722 and 1723. Please contact me at your convenience for any assistance on this very important historical plan for the Indian Peoples of the United States.

Very truly yours,

Mary Jane Fate

Mary Jane Fate, President
Baan o yeel kon Corporation
P. O. Box 74558
Fairbanks, Alaska 99707
(907) 456 6259

TO WHOM THIS MAY CONCERN:

I am submitting this letter of support regarding the development of a National Museum of the American Indian.

As current Vice President of the "North Dakota Indian Arts Association" which represents Native American arts and crafts producers from the State of North Dakota, it is my duty to acknowledge supportive developments pertaining to the promotion and expansion of Native American arts.

As current chairman of the recently formed "Midwest Regional American Indian Cultural Caucus" steering committee, I also must acknowledge this national museum development. As a caucus which represents eleven states and is affiliated with the Association of American cultures, we understand the value of preservation of the Native American culture and heritage. We also understand that such a museum will also be of great value to our nation and also internationally.

The Native American has contributed immeasurably to the development of this great country, it is only fitting that a national museum of the American Indian be established in their honor and in recognition of their sacrifices and contributions.

As a program development specialist on contract to the North Dakota Economic Development Commission located at the State Capitol in Bismarck, I am responsible for the development and establishment of a coordinated effort regarding the marketing of Native American art.

A major concern of mine is that, not only should we preserve a people's past by the creation of historical museums, and continue to build for their tomorrow today, but that an ongoing educational institution be implemented permanently to meet the demands of the future. As Native American art evolves and takes its rightful place in the arts, certain needs and concerns will arise and hopefully as this museum develops, certain supportive programs will also be implemented to outreach and assist developing regional,state, local and individual artists and organizational needs.

In conclusion, there is great potential in the development of a national museum of the American Indian as there is great potential in the Native American themselves.

As I am hopeful this museum will become established, I am equally as hopeful the expansion and continued development of the market of Native American art will also be greatly enhanced.

Thank you

Submitted by:

Tex Wounded Face

Tex Wounded Face
Project Development Specialist

December 14, 1987